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## NGOs as child rights implementers in India

### How NGO workers negotiate human rights responsibility in 'partnership' with a neoliberal and restrictive state

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# NGOs as child rights implementers in India

How NGO workers negotiate human rights responsibility in “partnership” with a neoliberal and restrictive state

THERESE BOJE MORTENSEN

HUMAN RIGHTS STUDIES | LUND UNIVERSITY





Non-governmental organisations (NGOs) are central actors in human rights practice. They hold governments to account, they campaign for new rights to be recognised, and they are increasingly themselves service providers who implement rights on behalf of the state. Yet, in human rights law, as well as in hegemonic human rights language and theory, there is an almost exclusive focus on states as the duty bearers of human rights. In this interdisciplinary study, an argument is that human rights language and theory need to be more informed by practice and acknowledge the crucial yet complex roles played by NGOs.

Therese Boje Mortensen sets out to ethnographically document a more vernacular rights language, where human rights, and specifically children's rights, are perceived to be the responsibility of "everyone." She studies CHILDLINE India, India's national helpline for children, which was an NGO-state partnership and one of India's largest child rights programmes from 1996 to 2023. By examining how CHILDLINE's semi-governmental employees negotiate the NGO sector's roles and responsibilities in a country that is simultaneously rights-based, neoliberal and autocratising, she shows the central roles played by NGOs in child rights implementation in India.



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rights responsibility in “partnership” with a  
neoliberal and restrictive state

Therese Boje Mortensen



**LUND**  
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## DOCTORAL STUDY

Doctoral study for the degree of Doctor of Philosophy (PhD) at the Faculty of Humanities at Lund University to be publicly defended on 15 December 2023 at 13.15 in LUX Aula, Övre, Department of History, Helgonavägen 3, 223 62 Lund

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<b>Title and subtitle</b> NGOs as child rights implementers in India: How NGO workers negotiate human rights responsibility in "partnership" with a neoliberal and restrictive state			
<b>Abstract</b> Non-governmental organisations (NGOs) increasingly enter into "partnerships" with states to implement human rights, a phenomenon that has been studied both as a necessary inclusion of civil society in human rights practice, and as a slippery slope towards a neoliberal state retreat. What remains to be studied is how this partnership practice shapes the concepts of human rights and their duty bearers. What happens when the "covenant version" of rights – where the state is the duty bearer – meets this partnership practice? Through an ethnographic conceptual analysis inspired by Sally Merry's "vernacularisation" theory and Sumi Madhok's theory of "vernacular rights cultures," this study analyses NGO-state partnerships in the paradoxically both rights-based and neoliberal, but also autocratising, Indian state. My case study is CHILDLINE, India's national child helpline that is financed by the central government, managed by a foundation and implemented by small NGOs. I show how, in this context, a specific articulation of rights and duties was prevalent, namely one that emphasised "everyone's" duty – society's, the state's, parents', businesses', NGOs', communities', "stakeholders" – for realising children's rights. It was an articulation that contained elements from both rights-based thinking, from neoliberal thinking, and from <i>sevā</i> , or "service"-based thinking. It was in curious contrast to what I call the hegemonic version of human rights duties, where children have a right by their <i>state</i> to be protected. I also found that in practice NGOs took upon themselves the role to fill "gaps" in the state's lacking rights regime which, in their view, only existed "on paper." I prompt us to think about these "gaps" between formal and everyday conceptualisations, and between law and practice, as not simply unfortunate or a parenthesis before we reach an ideal human rights state, but rather as an empirical reality of what rights are. Human rights are never fully implemented. Rather, implementation is a constant exercise between pressure on the state, action from the state, and filling gaps in the state's implementation, and NGOs play a crucial role in rights implementation, a role they negotiate with a state they sometimes meet as an ally, sometimes as an antagonist, and sometimes as a reluctant bureaucracy. In other words, I show what happens when international human rights obligations that are based on a vision of robust and unified statehood are imposed on fragmented, neoliberal and restrictive states where NGOs are key "partners". I argue that the conceptual production and practice of human rights should not only be taken seriously when it comes from "hegemonic" or "vernacular" spaces, but also from these "semi-governmental" spaces in which rights and duties are practiced.			
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# 1. Introduction

On my third day of fieldwork with a small, non-governmental organisation (NGO) in central India, the NGO's Director, Jagadish, took me to the city Indore to buy "everything I needed" for my new flat, because as he said, there was "nothing" in the smaller town I would live in. The drive back from Indore was about an hour and a half, and as we approached our small town, we passed a toll station. Jagadish asked the officer if his "government card" could get him through. The officer looked at it, said no and Jagadish had to pay. As we continued our drive, I asked what this "government card" was. "Actually, it is a CHILDLINE card," he said and showed it to me with a hint of pride. It was an ID-type card with the caption "*Madhya Pradesh Sarkar*."<sup>1</sup> It also had the name of his NGO, and CHILDLINE's logo. In one card, Jagadish carried the identity of a government servant, a representative of India's national child helpline (an NGO-state partnership), and an NGO employee. "Do you see CHILDLINE as the government?" I asked. "No," was the immediate answer. "CHILDLINE is pure NGO."<sup>2</sup>

This was the first of several incidences where I would remain confused about the identity of India's child helpline and its employees. Throughout my fieldwork with Jagadish's NGO that was charged with implementing the helpline, CHILDLINE would be referred to as anything from a "government service,"<sup>3</sup> "government work through an NGO,"<sup>4</sup> to "pure NGO" as Jagadish

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<sup>1</sup> Madhya Pradesh is a state in India. *Sarkār* translates to both "state" and "government" in Hindi. When transliterating Hindi words, I use the International Alphabet of Sanskrit Transliteration, but I omit silent *a* letters to assimilate the Hindi pronunciation and the way in which Hindi is commonly romanised.

<sup>2</sup> Field notes, 2 February 2019.

<sup>3</sup> Interview no. 7. See Appendix 1 for a full list of interviews.

<sup>4</sup> Interview no. 13 ("*NGO ke dvārā government kā kām*").

had said. CHILDLINE is indeed a complex service. It is financed primarily by the Indian central government, managed by an umbrella NGO in Mumbai, and its implementation – that is, rescuing children who call and linking them to state services – is further outsourced to hundreds of small NGOs across India. CHILDLINE is one of India’s largest child rights initiatives and is recognised in both national law and India’s country reports to the United Nations Committee on the Rights of the Child as a key programme for children’s protection rights in the country.<sup>5</sup> By calling the free number 1098, any child can get help – with education, with child marriage, with abuse – within one hour: an NGO employee from the local area meets the child and evaluates how to best help.<sup>6</sup>

Everyone I talked to during my fieldwork with CHILDLINE – from employees at small and large NGOs, to civil servants and government-critical academics – would underline *both* the strictly distinct virtues of NGOs as opposed to the state which made them ideal implementers of child rights, but

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<sup>5</sup> United Nations Committee on the Rights of the Child, “Concluding observations on the combined third and fourth periodic reports of India,” *CRC/C/IND/CO/3-4* (2014). For national law, see Chapter 4.

<sup>6</sup> This was at least how CHILDLINE functioned when I conducted fieldwork over the period of 2019-2021. Since then, a drastic change has fallen upon CHILDLINE, when the Indian government issued Mission Vatsalya in 2022, an overarching child protection policy that mandates CHILDLINE to be merged with the state-run emergency number 112 (Government of India, *Mission Vatsalya. Savdhanta Sanrakshnam: Implementation Guidelines* (New Delhi 2022), <https://wcd.nic.in/sites/default/files/GUIDELINES%20OF%20MISSION%20VATSALYA%20DATED%2005%20JULY%202022.pdf> (accessed 12 October 2023)). This policy is highly critiqued by NGOs (See for instance Jagriti Chandra, “Cloud over child helpline 1098 as government mulls merging it with national emergency helpline 112,” *The Hindu*, 16 April 2022, <https://www.thehindu.com/news/national/cloud-over-child-helpline-1098-as-government-mulls-merging-it-with-national-emergency-helpline-112/article65327177.ece> (accessed 11 October 2023); Ambika Pandit, “Child helpline to be integrated with 112 emergency response system,” *Times of India*, 14 September 2022, <https://timesofindia.indiatimes.com/india/child-helpline-to-be-integrated-with-112-emergency-response-system/articleshow/94187843.cms> (accessed 11 October 2023)), but at the time of writing (July 2023), the implications are still unclear. My study’s empirical material ends in 2021, and I have therefore not been able to consider this highly relevant ongoing development in my analysis.

also how the neoliberal retreating state was exploiting cheap labour by outsourcing service implementation to NGOs. This illustrates a larger contradiction in what most of us imagine when we hear the term “human rights NGO.” Try to imagine an ideal state in which all human rights are respected, protected, and fulfilled. Do human rights NGOs have a legitimate role in such a state? On the one hand, the argument is that NGOs represent an active “civil society” and therefore are an integral part of this ideal human rights state – that without civil society, human rights movements would not be successful in altering state behaviour.<sup>7</sup> On the other hand, one could argue that ideally, the state itself would be doing its duty to respect, protect, and fulfil human rights, and there would be no need for NGOs – that the ultimate goal for NGOs should be their own extinction. In this view, NGOs are either seen as irrelevant for ideal human rights implementation, or as neoliberalised institutions that have allowed the state to retreat, and their existence is therefore evidence of a far from ideal human rights state.<sup>8</sup> What I find most curious about these contradictory imaginations of what the role of NGOs should be in human rights practice, is that they are being upheld by the same institutions and sometimes even the same persons. From international legal documents to grassroots NGO personnel, we find arguments that NGOs are both “ideal” and “non-ideal.” In other words, NGOs are framed *both* as

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<sup>7</sup> For this type of argument, see for instance Julie Fraser, *Social Institutions and International Human Rights Law Implementation* (Cambridge: Cambridge University Press, 2020); Margaret E. Keck and Kathryn Sikkink, *Activists beyond borders: Advocacy networks in international politics* (Ithaca: Cornell University Press, 1998), 893-94; William Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine* (New York: Palgrave Macmillan, 1998); Fiona McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System* (New York: Routledge, 2021); Stephen Meyers, “NGO-ization and Human Rights Law: The CRPD’s Civil Society Mandate,” *Laws* 5, no. 2 (2016): 1.

<sup>8</sup> For this type of argument, see for instance Sangeeta Kamat, *Development hegemony: NGOs and the state in India* (Delhi: Oxford University Press, 2002); Anu Muhammad, “Rise of the Corporate NGO in Bangladesh,” *Economic and Political Weekly* 53, no. 39 (29 September 2018); Arundhati Roy, “The NGO-ization of Resistance,” *Towards Freedom*, 8 September 2014, <http://www.towardfreedom.com/51-global-news-and-analysis/global-news-and-analysis/3660-arundhati-roy-the-ngo-ization-of-resistance> (accessed 11 October 2023).

necessary moral actors at all times in a perfect human rights regime *and* as unsustainable “band-aids” in defunct states.

At the root of these contradictory imaginations lies the normative question of what the state and NGOs respectively should do when it comes to human rights implementation. If a child has a right to protection, who has the duty to ensure the implementation of that right? This study will ethnographically explore how people who work with rights in an NGO-state partnership conceptualise and operationalise the relationship between human rights and their “duty bearers.” Put simply, the “human rights duty bearer” refers to the actor that has a duty when someone has a right.<sup>9</sup> I will show that there is a tension between the strict version of human rights and duty bearers that we find in the international human rights covenants – namely that states are duty bearers of human rights – and a plethora of different practices related to responsibility for rights.

But this tension, I argue, which may look like the classic “gap” between theory and practice, should not necessarily in itself be seen as wrong or in need of remedy. Rather, it should be seen as in need of explanation and empirical unpacking. I argue that it is impossible to fix the famous “implementation gap” between human rights ideals and human rights practice, because the realisation of rights is a constant exercise of pressure on the state, action from the state, and filling gaps in the state’s implementation – it is not something that is once and finally implemented. India provides a fascinating case study of NGO workers who praise the country’s human rights *legislation*, but strongly criticises its human rights *implementation*. NGOs themselves, then, become key implementers of rights.

My study is framed by two primary research questions: Which imaginations about and practices of human rights and duty bearing manifest themselves in the NGO-state partnership CHILDLINE India? What happens when these

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<sup>9</sup> “Duty,” of course, has numerous meanings outside a human rights context. I will focus on “duty” as a human rights concept, that is, in terms of who has a duty when someone has a human right. I use “duty” and “responsibility” interchangeably, because, for my purposes, it is the *concept* of “the other side of the coin” of a human right that is under examination, not a specific term. In Chapter 3, I will discuss the concept “duty bearing” in detail.

practices meet the “covenant version” of rights where the state is conceptualised as the duty bearer? Further sub-questions will be highlighted throughout this introductory chapter, which will begin by outlining my theoretical framework, namely that of hegemonic and vernacular rights languages (1.1.). Hereunder, I also present the understandings of the key concepts of human rights, state, and NGOs that I employ in the study. Then I introduce literature on the roles of NGO-state partnerships in human rights studies, providing a scholarly background and motivation for the study (1.2.). In 1.3., I outline the chapters of the book.

## 1.1. Conceptual foundations: human rights, duty bearing, the state and NGOs

### 1.1.1. An interdisciplinary approach to human rights

This study makes a contribution to the field of interdisciplinary human rights studies which aims to illuminate human rights as the complex socially, historically, culturally, and politically constructed phenomenon that it is.<sup>10</sup> The present study will thus not treat human rights as pre-existing moral rights inherent in all human beings, nor as only a legal phenomenon that can be defined through a list of rights.<sup>11</sup> Instead, in line with Charles Beitz, I focus on how human rights as a concept is shaped by the *practice* of a number of

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<sup>10</sup> For examples of scholarship that indicate the ongoing development of the field of human rights studies as truly interdisciplinary, see for instance the contributions to Bård A. Andreassen, Hans-Otto Sano, and Siobhán McNerney-Lankford, *Research Methods in Human Rights: A Handbook* (Cheltenham; Northampton: Edward Elgar Publishing Limited, 2017); Lee McConnell and Rhona Smith, *Research Methods in Human Rights* (London: Routledge, 2018).

<sup>11</sup> “Lists of rights” (conventions) are important, but in this study they are treated as practice, that is, as written outputs of specific societies’ normative ideas.



actors such as the international legal community, NGOs, activist movements, states, and companies.<sup>12</sup>

I am particularly interested in a concept that thus far has received more attention in philosophical and legal scholarship than in interdisciplinary human rights studies: duty bearing of human rights. The idea that the very notion of a right requires some actor that has, or should have, responsibility for rights is not only legal. The concept of “duty bearing,” just as the concept of “human rights” itself, exists also outside the law:<sup>13</sup> there is a vast philosophy on responsibility for rights,<sup>14</sup> but there are also *everyday conceptualisations* and *everyday practices* of duty bearing, as this study will show through ethnographic data: people subscribe to ideas about who should be responsible for human rights, and organisations and institutions take responsibility upon themselves to ensure that human rights are fulfilled. Duty bearing is being practiced beyond international human rights conventions, and it is this “social life” of the concept that I set out to investigate.

In other words, I aim to scrutinise the concept of human rights duty bearing from an interdisciplinary perspective and with a specific angle which is my own. My theoretical framework of hegemonic and vernacular rights languages, which I will outline in the next section, is primarily an expression of political theoretical and anthropological human rights theory. My methods are first and foremost ethnographic, but also contain conceptual analysis inspired by a philosophical approach. I furthermore engage with political science and political anthropology – specifically that concerning NGOs, the state, and human rights in India – when it comes to discussing the roles and practices of NGOs in neoliberal times. Finally, I am in conversation with the legal discipline, especially in Chapter 3 when I discuss the hegemonic human rights language that is discernible in international human rights law, and in Chapter 4 when I analyse the Indian legal framework for NGO regulation

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<sup>12</sup> Charles Beitz, R., *The Idea of Human Rights* (Oxford: Oxford University Press, 2009), 8; 48-49.

<sup>13</sup> For a legal study attentive to non-legal social institutions’ role in human rights, see Fraser, *Social Institutions and International Human Rights Law Implementation*.

<sup>14</sup> I go through some of this scholarship in Chapter 3.

and children's rights. This interdisciplinary approach with an emphasis on ethnography allows me to study human rights and duty bearing primarily as concepts shaped by practice. It is my hope that this approach will contribute to moving the study of responsibility for human rights beyond legal and philosophical scrutiny, and into interdisciplinary and empirically grounded human rights studies. In the next two sections, I introduce my theoretical framework of hegemonic and vernacular rights languages.

### 1.1.2. Vernacularisation or vernacular rights cultures?

Legal anthropologist Sally Merry has convincingly argued that ethnographic studies of "the micro-processes of human rights discourse, practice and consciousness" can increase our knowledge of how human rights ideas and laws have effect.<sup>15</sup> Merry has studied such micro-processes from the human rights elite at the United Nations (UN) to grassroots activists across the world.<sup>16</sup> Her theory of how human rights are "vernacularised" between global and local spaces have been highly influential in human rights studies. She explains the concept of vernacularisation in the following way:

Human rights ideas travel and come to ground in a variety of contexts and situations. They must be translated into terms that make sense in particular situations, a process I have called 'vernacularization'. Conversely, human rights activists who work in particular situations must translate in the opposite direction. When they write human rights reports, they convert particular

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<sup>15</sup> Sally Engle Merry, "The Potential of Ethnographic Methods for Human Rights Research," in *Human Rights Research Methodology: Key Issues and Approaches*, ed. Bård A. Andreassen, Hans-Otto Sano, and Siobhan McInerney-Lankford (Cheltenham: Edward Elgar Publishers, 2017), 141.

<sup>16</sup> Ibid.; Peggy Levitt and Sally Engle Merry, "Vernacularization on the ground: local uses of global women's rights in Peru, China, India and the United States," *Global Networks* 4 (2009); Sally Engle Merry, "Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization," in *Law and Anthropology: A Reader*, ed. Sally Falk Moore (Oxford: Blackwell Publishing Ltd, 2005).

situations into the more globally recognizable terms and categories of human rights law.<sup>17</sup>

Merry's work has been a crucial inspiration for this study, especially as I study how ideas about rights and duties travel, and how small NGOs use and adapt the "duty bearer" concept. However, while her framework captures how people work with what I will call the hegemonic conception of human rights, it is not fully adequate and adapted to capture what goes on outside translations to and from that hegemonic conception. While Merry herself problematises the dichotomy of "global" and "local,"<sup>18</sup> these categories have become central in her own and others' work on vernacularisation.<sup>19</sup> Political theorist Sumi Madhok has critiqued the vernacularisation framework for "operat[ing] within and actively reproduc[ing] the binaries of the epistemic—authorial global versus the nonepistemic translating local—and thereby foreclos[ing] agency and authorship of rights from elsewhere, not least from the margins."<sup>20</sup> While I do not think it was Merry's intention to be understood in this way, since she explicitly talks of translation *both* ways, I do agree that we should be very attentive to the fact that so-called "local" rights articulations are not translated from the "global," but have their own

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<sup>17</sup> Merry, "The Potential of Ethnographic Methods for Human Rights Research," 145-46.

<sup>18</sup> Sally Engle Merry, "Transnational Human Rights and Local Activism: Mapping the Middle," *American Anthropologist* 108, no. 1 (2006): 39.

<sup>19</sup> Sealing Cheng, "The Paradox of Vernacularization: Women's Human Rights and the Gendering of Nationhood," *Anthropological Quarterly* 84, no. 2 (2011); Levitt and Merry, "Vernacularization on the ground: local uses of global women's rights in Peru, China, India and the United States"; Nathan H. Madson, "Finding the 'Humanity' in Human Rights: LGBT Activists and the Vernacularization of Human Rights in Hong Kong," *Law & Social Inquiry* 47, no. 1 (2022); N. Rajaram and Vaishali Zararia, "Translating women's human rights in a globalizing world: the spiral process in reducing gender injustice in Baroda, India," *Global Networks* 9, no. 4 (2009).

<sup>20</sup> Sumi Madhok, "On Vernacular Rights Cultures and the Political Imaginaries of Haq," *Humanity* 8, no. 3 (2017): 501-02.

conceptual histories. The term “vernacularisation” inevitably leads to an understanding of a process *into*, and not from, the vernacular.<sup>21</sup>

One of Madhok’s key contributions to rights theory is the notion of “vernacular rights cultures.” This refers to those rights cultures that “escape theoretical and conceptual capture” because they fail to “‘fit’ the model of global human rights.”<sup>22</sup> They are the “non-elite, particular and unprivileged sites of rights articulation and politics.”<sup>23</sup> To study vernacular rights cultures therefore means to tell stories “that fall outside of the hegemonic institutionally focused accounts of global human rights.”<sup>24</sup> In other words, while Merry takes her point of departure in the hegemonic human rights discourse and asks whether and how it can make a difference at local levels,<sup>25</sup> Madhok’s approach shifts the perspective to the conceptual productions of rights that happen *outside* the “hegemonic rights talk.”<sup>26</sup> Her separation of the “vernacular” and “hegemonic” does not mean that there is a “singular, hegemonic human rights discourse that is travelling in an authentic or pure way from the Global North to meet other pure and authentic discourses in the Global South”<sup>27</sup> – but rather that some expressions of what human rights

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<sup>21</sup> For a similar approach, adapting Merry’s vernacularisation framework, see Sarah E. Holcombe, *Remote Freedoms: Politics, Personhood and Human Rights in Aboriginal Central Australia* (Stanford: Stanford University Press, 2018).

<sup>22</sup> Sumi Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice* (Cambridge: Cambridge University Press, 2021), 175.

<sup>23</sup> *Ibid.*, 2.

<sup>24</sup> *Ibid.*, 6.

<sup>25</sup> Merry, “Transnational Human Rights and Local Activism: Mapping the Middle,” 39.

<sup>26</sup> Robin Frederick Dunford and Sumi Madhok, “Vernacular rights cultures and the ‘Right to Have Rights,’” *Citizenship Studies* 19, no. 6/7 (2015): 605.; Madhok, “On Vernacular Rights Cultures and the Political Imaginaries of Haq,” 486.

<sup>27</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, 35.

mean have more epistemic power<sup>28</sup> than others; and the framework of vernacular rights cultures can help us identify these. I will rely both on Merry and Madhok in my analysis, arguing ultimately that their approaches can complement each other.

### 1.1.3. Hegemonic and vernacular rights conceptions

Inspired by these two theorists, my primary theoretical framework consists of a spectrum from “hegemonic” to “vernacular” rights conceptions.<sup>29</sup> Importantly, these should not be seen as a dichotomy of two “pure” versions of rights, but rather as two ends of a spectrum. The “hegemonic” end of the spectrum refers to the human rights language that has most epistemic power in spreading ideas globally about what human rights mean. It is, for instance, the language of international human rights conventions. On the “vernacular” end, we find ideas about rights that are produced in subaltern and non-elite spaces, those that may counter hegemonic ideas. These languages are, for instance, those used in the subaltern rights struggles studied in Madhok’s *Vernacular Rights Cultures*.<sup>30</sup> What I add is the study of the vast, yet far from empty, space in between these two ends, the spaces in which the hegemonic meets the vernacular. This perspective is important because in practice, conceptualisations of rights and duties are not produced solely by the UN, by states or by subaltern movements, but in all the spaces in between where

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<sup>28</sup> Madhok uses the term “epistemic power” as a definitional part of the distinction between what she calls the “global” and the “vernacular” of human rights: there are “unequal epistemic power relations between global human rights and the politics of vernacular rights cultures, and this is why the latter are ‘the vernacular’ and not ‘the global’” (ibid., 2.). She argues that the subaltern is rarely seen as an epistemic subject, and the intellectual project of *Vernacular Rights Cultures* is to build conceptual diversity (ibid., 2-3.). When I employ the term “epistemic power” in this study, it is in a similar understanding as Madhok’s.

<sup>29</sup> While Madhok uses the term “vernacular rights *cultures*,” I use hegemonic and vernacular *languages, practices and conceptions*. With *languages*, I refer to the vocabulary and terms that my informants and studied documents use; with *practices*, I refer to how I observed duty bearing and human rights being practiced; and with *conceptions*, I refer to the underlying conceptual understanding behind terms used and practices observed.

<sup>30</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*.

different agendas and discourses mix – such as in so-called “partnerships” between states and NGOs. For instance, a large NGO in Mumbai is by no means non-elite or unprivileged, but neither do its human rights expressions represent a replication of an international legal human rights language. A small NGO in Madhya Pradesh is also both influenced by the hegemonic human rights language, and by particular expressions of justice that intermingle with rights discourses. I thus study rights expressions that are not only developed by the state, or in struggles against the state, but also in “partnership” with the state. Here it becomes clearer than ever how rights and duty articulations are never “pure,” but equal a co-existence of ideas.

Another important point here is that I do not claim the hegemonic human rights language to be “wrong.” Rather, my aim is to demonstrate that it exists in an epistemically hierarchical relation to more vernacular rights languages,<sup>31</sup> and to show that it is only one possible version of what rights and duties mean. If we want to refine our conceptualisation of human rights, different stories need to inform us, not only the hegemonic story. But while Madhok offers the important shift in perspective “from institutionally focused studies on human rights to the actual work that rights and human rights politics does,”<sup>32</sup> my ambition is to account for *both* the hegemonic and more (but not fully) vernacular languages and practices around human rights duty bearing. Finally, while human rights anthropology, such as Merry’s, has always had the focus of beginning “from below,” I seek to combine the insights ethnography can offer with a philosophical conceptual analysis, as I will detail in Chapter 2. I am studying the connections and disconnections between a hegemonic human rights language, and vernacular languages and practices around child rights.

I also contribute a specific focus on “duties” as part of rights conceptualisations. As I will demonstrate in detail in Chapter 3, the hegemonic language of international law and much political theory implies a state-centric account of rights and duties. As Merry has formulated it, human rights “are embedded in a distinctive vision of the good society that envisions the state as the

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<sup>31</sup> Ibid., 51.

<sup>32</sup> Ibid., 3.

provider of social justice and the individual as responsible for making rights claims on *the state*.<sup>33</sup> But this hegemonic conceptualisation of duty bearing is not necessarily reflected in vernacular rights languages. For instance, Madhok presents ethnographic findings of how some activists for indigenous people's rights in India justified their land rights not in relation to a duty bearer, but rather on an "ancestral" premise.<sup>34</sup> As we will see in the present study, to actors in the NGO-state partnership CHILDLINE, duties were – in contrast to the subaltern context Madhok studied – a very important premise to ground rights on, but who the duty bearer should be was not as central. Indeed, the dominating perception among the "semi-governmental"<sup>35</sup> workers I talked to was "the more duty bearers, the better."

In sum, through the case study of the NGO-state partnership CHILDLINE, my aim is to study those spaces where hegemonic and vernacular rights and duty conceptions meet. Through the framework of hegemonic and vernacular rights conceptions, my empirical chapters explore the following questions: If a hegemonic rights language centres around the state as the "duty bearer," how do people working with NGO-state partnerships talk about duty in relation to rights? How central is the state to them? How can different stories about duty bearing and responsibility towards rights shape our conceptualisation of the rights concept? Now, in order to comment on the role of the state and NGOs within the field of human rights studies, it is necessary to outline how I understand and employ "state" and "NGO."

#### 1.1.4. The state

I take as my point of departure an anthropological conception of the state as an entity that is foremost produced by bureaucratic practices and documents, and by individuals' interactions with and understandings of the bureaucracy

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<sup>33</sup> Merry, "Transnational Human Rights and Local Activism: Mapping the Middle," 49. (emphasis mine).

<sup>34</sup> Madhok, "On Vernacular Rights Cultures and the Political Imaginaries of Haq," 494-95.

<sup>35</sup> With "semi-governmental" workers, I mean people who have a dual state-NGO identity in their work: they are technically employed by an NGO, but in many practical instances they work for the state. For a further discussion of this, see Chapter 5.

and the documents it produces.<sup>36</sup> In this conception, the scholar does not seek to understand or pin down the state as an “a priori conceptual or empirical object,”<sup>37</sup> but rather how an “it-ness is attributed to ‘the state.’”<sup>38</sup> The state, in this approach, should therefore be understood as a “relational set of practices”<sup>39</sup> and a “fractured ensemble of institutions”<sup>40</sup> that is bureaucratically produced, and individually and collectively experienced and reproduced. However, this is far from claiming that the state could be anything. When Nayanika Mathur writes that an “it-ness” of the state is produced, this “it-ness” is something highly specific. Indeed, as previous studies have shown, and as will also be evident in the following chapters, the state is overwhelmingly produced and experienced to be something *unique* with *legitimate authority*, and as both “*encompassing*” and being “*above*” civil society and citizens.<sup>41</sup>

I am, in line with the above conception of the state, specifically interested in how it is perceived and related to when it comes to human rights: it is expected to fulfil human rights through laws and policies (what I in this study designate “paper”<sup>42</sup>), and by implementing the “paper” (which is often done by the

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<sup>36</sup> Similar to e.g. Stuart Corbridge et al., *Seeing the State: Governance and Governmentality in India* (Cambridge: Cambridge University Press, 2005); Matthew Hull, *Government of Paper: The Materiality of Bureaucracy in Urban Pakistan* (Berkeley: University of California Press, 2012); Nayanika Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India* (Cambridge: Cambridge University Press, 2016); Aradhana Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” *Cultural Anthropology* 21, no. 1 (2006): 62.

<sup>37</sup> Aradhana Sharma and Akhil Gupta, “Introduction: Rethinking Theories of the State in an Age of Globalisation,” in *The Anthropology of the State: A Reader*, ed. Aradhana Sharma and Akhil Gupta (Oxford: Blackwell Publishing, 2006), 8.

<sup>38</sup> Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*, 5.

<sup>39</sup> Ibid.

<sup>40</sup> Thomas Blom Hansen, *The Saffron Wave. Democracy and Hindu nationalism in Modern India* (Princeton: Princeton University Press, 1999), 26.

<sup>41</sup> James Ferguson and Akhil Gupta, “Spatializing States: Toward an Ethnography of Neoliberal Governmentality,” *American Ethnologist* 29, no. 4 (2002). See also Chapters 4, 5, and 6 where I elaborate on these perceptions with my own empirical material.

<sup>42</sup> For further details on this use of “paper,” see Chapter 4.



production of more paper). And as I am also interested in delineations and the relation between the state and NGOs, a key focus will be how the state as an expression of a stable and legitimate authority is produced through attempts to regulate and restrict the NGO sector. The “practice” that I study is hence the interactions that emerge in the posited interface between the state and NGOs, for instance when state-authored policies outsource implementation to NGOs and thus co-opt them into the state realm, or when state laws restrict the foreign funding possibilities of NGOs and thus exercise and impose authority on a level that exists “above” NGOs.

Despite the above characteristics of how the state is commonly produced and experienced – as authoritative, unique, and both above and encompassing civil society – there are also, as the present study will demonstrate, many different representations and expectations of the state when it comes to human rights implementation. It’s “it-ness,” that is, arises through what a varied set of actors do. The most important actors in the scrutinised case are the UN (Chapter 3), central Indian ministries (mostly but not exclusively the Ministry of Women and Child Development) (Chapter 4), NGOs as behind-the-scene lobbyists (Chapters 4 and 5), NGOs as implementers of government schemes (Chapters 5 and 6), and NGOs as resisters to the state’s tightening policies on civil society (Chapters 4, 5, and 6). As I will elaborate in Chapter 4, the “paper” that hold the status as state-authorised and state-mandated is produced by an amalgam of different actors, sometimes with different agendas, leading to a fragmented state that enacts and promotes policies that point in different directions. I am thus interested in the everyday meanings that are put into the notion of “the state” – or *sarkār*,” the Hindi word that translates as both “government” and “state” in English – that was abundantly invoked by my informants when talking about who was

responsible for rights implementation.<sup>43</sup> Studying these different renderings of the state together, I will bring out the tensions between international legal ideas about the state as *the* duty bearer of human rights, ideas about NGOs and civil society as playing duty bearing roles, the complexity of the Indian state – which is simultaneously developing a rights-based child protection system and privatising child rights in neoliberal outsourcing policies, thus challenging the hegemonic “state as duty bearer conception” – and, finally, more vernacular ideas of duty and responsibility present within the practices of large and small NGOs in India.

#### 1.1.5. NGOs

What does “NGO” mean? Although the term was coined in Article 71 of the UN Charter from 1945,<sup>44</sup> it was not commonly used until the 1980s, when the idea of what we today know as NGOs rapidly began to take form.<sup>45</sup> Despite many attempts, there is no official definition of the term.<sup>46</sup> I use it to

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<sup>43</sup> The informants in my study used the term “government” in English and *sarkār* in Hindi (which can be translated to both “government” and “state”) to refer to the larger imagination of the state. One of the purposes of this study is to demonstrate the ambiguity with which “the state” was viewed by NGO workers: it was simultaneously the public sector, a “stakeholder,” the law, specific local officials, and a “label” they could use to appear more convincing. In quotes and vignettes, in order to reflect my informants’ language, I use “government” to refer to this plurality and accumulation of meanings. In other cases, I use “state.” I also use “government” to refer to specific elected governments in India at different points in time.

<sup>44</sup> Fiona McGaughey, “From gatekeepers to GONGOs: A taxonomy of NonGovernmental Organisations engaging with United Nations human rights mechanisms,” *Netherlands Quarterly of Human Rights* 36, 2 (2018): 115.

<sup>45</sup> Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*, 2-3; Kerstin Martens, “Mission Impossible? Defining Nongovernmental Organizations,” *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 13, no. 3 (2002): 271. For the Indian context, see Siddhartha Sen, “Non-profit organisations in India: historical development and common patterns,” *Voluntas: International Journal of Voluntary and Nonprofit Organizations* 3, no. 2 (1992): 181-82; D.L. Sheth and Harsh Sethi, “The NGO sector in India: historical context and current discourse,” *ibid.* 2 (1991): 49.

<sup>46</sup> For a historical and legal definitional discussion, see Martens, “Mission Impossible? Defining Nongovernmental Organizations.”

refer to legally registered, not-for-profit organisations that are dependent on fundraising for survival; that self-identify with a mission of social change; and that gain legitimacy from the surrounding society by representing a morally righteous sector.<sup>47</sup> The last characteristic is particularly important and is what Dorothea Hilhorst has called a “claim-bearing label,” that is, that the organisation claims that it is doing good for others and the label “NGO” thus carries a moral component.<sup>48</sup> My choice of using “NGO” rather than “civil society organisation” (CSO) or “non-profit organisation” (NPO) is not rooted in a belief that the employment of these terms is significantly different. They can have different technical definitions, but in daily speech, they are often used interchangeably. I use “NGO” for consistency and because it is one of the most widely used terms. At times, I will use “voluntary organisation” or “the voluntary sector” interchangeably with NGO(s), because it is a term often used in policy and daily speech in India. It is also important to underline that although I subscribe to the definition given above, I am more concerned with the meanings and expectations that different actors put into the term “NGO” than to study a neatly delineated group of organisations. The NGO sector is indeed very difficult to define, and it has rightly been argued that permanent characteristics of the NGO sector are hybridity, fragmentation,

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<sup>47</sup> This definition is my own, but inspired by Sanjeev Khagram, James V. Riker, and Kathryn Sikkink, “From Santiago to Seattle: Transnational Advocacy Groups Restructuring World Politics,” in *Restructuring World Politics: Transnational Social Movements, Networks, and Norms*, ed. Sanjeev Khagram, James V. Riker, and Kathryn Sikkink (Minneapolis: University of Minnesota Press, 2002), 6; Sabine Lang, *NGOs, Civil Society, and the Public Sphere* (Cambridge: Cambridge University Press, 2013), 12; McGaughey, “From gatekeepers to GONGOS: A taxonomy of NonGovernmental Organisations engaging with United Nations human rights mechanisms,” 116; Steven Sampson, “Introduction: Engagements and Entanglements in the Anthropology of NGOs,” in *Cultures of Doing Good: Anthropologists and NGOs*, ed. Amanda Lashaw, Steven Sampson, and Christian Vannier (Tuscaloosa: University of Alabama Press, 2017), 11; Christopher Todd Beer, Tim Bartley, and Wade T. Roberts, “Ngos: Between Advocacy, Service Provision, and Regulation,” in *The Oxford Handbook of Governance*, ed. David Levi-Faur (New York: Oxford University Press, 2012), 326; A. Vakil, “Confronting the classification problem: Toward a taxonomy of NGOs,” *World Development* 25, 12 (1997): 2060.

<sup>48</sup> Dorothea Hilhorst, *The Real World of NGOs: Discourses, Diversity and Development* (London: Zed Books, 2003), 7.

fuzziness and constant change rather than “idealtypical notions”<sup>49</sup> such as “public” or “private” – an observation I will return to below.

#### *1.1.5.1. Between a critical and an organisational approach to NGO studies*

There are several scholarly entries into the study of NGOs. Sahara Pradhan et al. have usefully distinguished three approaches to NGO studies. First, they identify a “liberal political theory” approach, which analyses NGOs as part of civil society, as separate and autonomous from the state and the market, and thus as voluntary and self-driven.<sup>50</sup> I do not subscribe to such idealised or normative perceptions of NGOs, because all NGOs on some level depend on a state, and it is therefore more useful, as James Ferguson and Akhil Gupta do, to conceptualise them as part of rather than outside of governance institutions.<sup>51</sup> Similarly questionable is the idea that NGOs operate on the basis of “voluntarism,”<sup>52</sup> which is not the case in professionalised NGOs.<sup>53</sup>

Although this is not my approach, it has become common (both in academia and everyday language) to equate NGOs with “civil society,” and it is therefore necessary to briefly outline the kind of civil society concept that is at work in this study. Indeed, “civil society” can be used to denote anything from child rights NGOs to paramilitary and ethnonationalist organisations

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<sup>49</sup> Taco Brandsen, Wim van de Donk, and Kim Putters, “Griffins or chameleons? Hybridity as a permanent and inevitable characteristic of the third sector,” *International Journal of Public Administration* 28, no. 9-10 (2005): 750.

<sup>50</sup> Sahara Pradhan, Verity Norman-Tichawangana, and Sangeeta Kamat, “NGOs in international development: ongoing trends and new architectures,” in *International Encyclopedia of Education* (Oxford: Elsevier, 2023), 566.

<sup>51</sup> Ferguson and Gupta, “Spatializing States: Toward an Ethnography of Neoliberal Governmentality,” 995.

<sup>52</sup> Sampson, “Introduction: Engagements and Entanglements in the Anthropology of NGOs,” 11.

<sup>53</sup> This does not mean that NGOs do not carry voluntarism as a value. See Tanya Jakimow, “Negotiating the Boundaries of Voluntarism: Values in the Indian NGO Sector,” *Voluntas* 21 (2010).

like the Rashtriya Swayamsevak Sangh (RSS).<sup>54</sup> While recognising these many and broad meanings of the term,<sup>55</sup> I will employ it in the sense of a larger realm of society that NGOs by many are perceived to represent.

The second approach to the study of NGOs that Pradhan et al. identify is an organisational approach that studies the rules, norms, and institutional dynamics of NGOs as organisations.<sup>56</sup> The third approach is their own critical one, which seeks to understand how the NGO sector has emerged as a powerful actor, conceptualising NGOs as part of a “broader political economy of global capitalism where state and civil society are in a dialectical relation.”<sup>57</sup> My own approach lies somewhere between these two. I strongly agree with Pradhan et al.’s argument that NGOs should be studied with a critical lens, especially as actors within a neoliberal institutional environment. However, I also believe that an organisational approach – that is, studying NGOs’ values, identities and strategies as a particular type of organisation – provides a valuable foundation for the critical lens. In Chapter 6 especially, I will use previous work on organisational identity, missions and objectives of NGOs

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<sup>54</sup> For an analysis of the latter as “civil society,” see Soundarya Chidambaram, “India’s Inexorable Path to Autocratization: Looking beyond Modi and the populist lens,” in *Routledge Handbook of Autocratization in South Asia*, ed. Sten Widmalm (London; New York: Routledge, 2022).

<sup>55</sup> An immense amount of theorisation has been done on the meanings of civil society in India and elsewhere that is outside the scope of this thesis. See for instance Partha Chatterjee, “On civil and political society in post-colonial democracies,” in *Civil Society. History and Possibilities*, ed. Sudipta Kaviraj and Sunil Khilnani (Cambridge: Cambridge University Press, 2001); Neera Chandhoke, “Civil Society in India,” in *The Oxford Handbook of Civil Society*, ed. Michael Edwards (Oxford: Oxford University Press, 2011); Rowena Robinson, “Catholics, caste and citizenship: Engagements in civil society,” *Journal of Civil Society* 17, no. 1 (2021); Vidhu Verma, “Introduction. The State in India: Contesting Perspectives,” in *The State in India. Ideas, Norms and Politics*, ed. Vidhu Verma (Hyderabad: Orient Blackswan Private Limited, 2019), 20–21. Further worth noting is that the term has grown out of a specific European history, and many – most prominently Chatterjee – have questioned its relevance for postcolonial societies like India (Chatterjee, “On civil and political society in post-colonial democracies”).

<sup>56</sup> Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 566.

<sup>57</sup> Ibid.

to show how their work and rights-based strategies are affected by being “partners” of the state. In sum, this is a study into NGOs “from the inside,” through an organisational ethnography, as well as a critical reflection of NGOs’ roles in society.

#### 1.1.6. Ideal types or hybrids?

After these comments on the concepts of the state, civil society and NGOs, the question remains as to whether the ideal types “state” and “NGO” still work for us in conceptualising who is responsible for human rights fulfilment. Most of us will associate the term “NGO” with voluntarism, service and activism, while the term “state” will invoke notions of authority and bureaucracy.<sup>58</sup> And somehow, both ideal types seem well-placed to fulfil human rights: the state because it is perceived to be stable and powerful; and NGOs because they are perceived to be virtuous and acting out of morally good intentions. Yet, there is an abundance of empirical evidence that the state and NGOs are not (and have never been) neatly separate entities. As will be clear from my analysis and as I will return to in the conclusion, perhaps we should not try to define boundaries between state and civil society, but rather provide evidence for the overlaps between the entities or sectors – and ask why people still conceptually separate them. CHILDLINE will be highlighted as an example of a “hybrid” state-NGO organisation in the sense of Taco Brandsen et al.:

... the increasingly hybrid and changeable nature of organizations (...) has been treated as a complication that frustrates presently dominant analytical concepts. Alternatively, it could be regarded as a *feature* of these organizations and arrangements. There is no reason to believe that the different domains will empirically move closer to their idealtypical representations; quite the reverse. If this is the case, then perhaps the fuzziness is not fuzzy at all; it is not

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<sup>58</sup> For a discussion on the conceptual opposition of voluntarism and state bureaucracy, see Anders Sevelsted, “Voluntarism: Promises of Proximity as Articulated by Changing Moral Elites,” *Contributions to the History of Concepts* 15, no. 2 (2020): 103. I will also elaborate on this in Chapters 5 and 6.

the fog that obscures our vision, but the very thing we have been trying to discern.<sup>59</sup>

Throughout this study, I will refer to a seeming “messiness” where very different, even contradictory, practices and conceptualisations co-exist. But what may seem like a random overlap of ideas is in fact the result of the co-existence of different, but specific historical, social, and political values – or a “social matrix”<sup>60</sup> – that has resulted in a very particular hybridity worthy of thick description. The seeming messiness is therefore akin to Brandsen et al.’s “fog” that “we have been trying to discern.” With these terms, I refer to the observation that, yes, human rights practice is filled with gaps in implementation, filled with influences from different practices and concepts, and filled with overlaps between state and civil society, in other words, *this* is human rights practice. I will also demonstrate how – despite this empirically observable hybridity – ideal types of “the state” and “NGOs” also continue to exist. In the hegemonic human rights language, the ideal type of the state is particularly strong and dominating, and the meeting between this ideal type and practices has impact on how responsibility for human rights is conceived of and practiced. Before delving deeper into these findings, we need to look closer at the current literature on the roles of NGOs in relation to human rights.

## 1.2. Locating the research field: NGO-state partnerships in human rights literature

How have NGOs previously been studied in human rights literature? In this section, I will focus on two scholarly debates that I contribute to within the fields of NGO studies and human rights studies. The first is the literature on NGO “roles:” what are the legitimate, normative, and empirical roles played by NGOs in relation to human rights? Here, I focus on the role identified by

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<sup>59</sup> Brandsen, Donk, and Putters, “Griffins or chameleons? Hybridity as a permanent and inevitable characteristic of the third sector,” 759.

<sup>60</sup> Sally Haslanger, “What Are We Talking About? The Semantics and Politics of Social Kinds,” *Hypatia* 20, no. 4 (2005): 19-20.

many scholars that NGOs are “mediators” between citizens and state, and that, when it comes to human rights, they often fill an “implementation gap” by turning rights from law into practice (1.2.1.). After introducing this literature, I locate my contribution to this field in the emerging new conceptualisations of duty bearers beyond the state (1.2.1.1.). Second, how has the rise of the NGO-state *partnership* been studied from a human rights perspective, and to what extent is it part of the broader relations between human rights and neoliberalism? (1.2.2. and 1.2.2.1.). Here, I locate my contribution as an ethnographic study of how human rights and neoliberalism co-exist in practice (1.2.2.2.). I should note that as I discuss these debates, I apply the lens of human rights studies, and do not aim to provide a comprehensive literature review of NGO-state partnerships in general.

### 1.2.1. NGO roles in human rights practice: Filling the “implementation gap”?

Human rights NGOs are heterogeneous actors which in the human rights literature have been categorised as playing a number of different roles: lobbyists who pressure states to adopt new laws,<sup>61</sup> experts on particular rights issues,<sup>62</sup> fact-finders and ombudsmen who hold the state in check,<sup>63</sup> and governance actors at the UN level<sup>64</sup> – all in all, as actors who fill some kind of gap between human rights ideals and practice. My focus in this study are domestic NGOs in India that enter into “partnerships” with the state to fulfil rights. I am therefore less concerned with what might be called “traditional” and international human rights NGOs such as Amnesty International or

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<sup>61</sup> McGaughey, “From gatekeepers to GONGOs: A taxonomy of NonGovernmental Organisations engaging with United Nations human rights mechanisms;” Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*.

<sup>62</sup> See Julie Fisher, *Nongovernments: NGOs and the Political Development of the Third World* (Connecticut: Kumarian Press, 1998), chapter 3, and Martens, “Mission Impossible? Defining Nongovernmental Organizations.”

<sup>63</sup> Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*.

<sup>64</sup> Ibid.; McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*.



Human Rights Watch,<sup>65</sup> but rather with the type of human rights NGO whose core or “original” issue is not human rights, but who apply a “rights-based approach” in their work.<sup>66</sup>

It has indeed become almost ubiquitous for NGOs in the sector that I focus on, child protection, to use a “rights-based approach,” which in short means to support a state structure comprised of legal rights and obligations; to have a normative basis in international human rights standards; to aim to protect human rights; and to assume that inequalities and discrimination lie at the root of the problems at hand.<sup>67</sup> A rights-based approach for NGOs also implies efforts to build the “capacity” of rights holders to claim their rights and of duty bearers to fulfil their obligations,<sup>68</sup> thus placing themselves – NGOs – outside the core of a rights claim, but still indispensable for its fulfilment. But many rights-based NGOs are not only advocating for a stronger state structure: they are also part of implementing this structure as “partners” of the state. Here, they enter the role of being a service deliverer. This role, which often coincides with a roll-back of the state, is therefore at odds with the hegemonic rights-based language which emphasises a strong state as the primary duty bearer of rights. My question regarding this particular type of NGO – the state-contracted, rights-based NGO – is how to grasp the role it plays as a human rights actor? Throughout the study’s

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<sup>65</sup> For a study of these types of human rights NGOs, see Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*. See also Samuel Moyn, *The Last Utopia: Human Rights in History* (Cambridge, Massachusetts: Belknap Press of Harvard University Press, 2010).

<sup>66</sup> The literature on a rights-based approach to *development* is vast (see e.g. Hans-Otto Sano, “Does Human Rights-Based Development Make a Difference?” in *Casting the Net Wider: Human Rights, Development and New Duty-Bearers* ed. Margot E. Salomon, Arne Tostensen, and Wouter Vandenhoe (Antwerp: Intersentia, 2007); Wouter Vandenhoe and Paul Gready, “Failures and Successes of Human Rights-Based Approaches to Development: Towards a Change Perspective,” *Nordic Journal of Human Rights* 32, no. 4 (2014). Since my thesis is not explicitly concerned with “development,” I have only included this literature field when relevant to my context.

<sup>67</sup> Office of the High Commissioner for Human Rights (OHCHR), cited in Sano, “Does Human Rights-Based Development Make a Difference?”, 64.

<sup>68</sup> United Nations Committee on the Rights of the Child, “General comment No. 21 (2017) on children in street situations,” *CRC/C/GC/21* (2017), General Comment, para. 11.

chapters, I will argue that it can be captured as being both an actor that gains moral legitimacy from *not* being the state, and at the same time being able to work only because it is *part of* the state. Below, I briefly outline the scholarship that this argument rests upon.

As noted above, many scholars have pointed out what they call an “implementation gap” between human rights law and practice. India is a prime example of such a gap, as a state that has laudable rights-based laws, but lacks in implementation.<sup>69</sup> Often, however, this “gap” is reduced to a regrettable fact that needs to be redressed.<sup>70</sup> I seek to go a step further and argue that one of the reasons for the persistent existence and expansion of NGOs in human rights practice is the constant need to address the “implementation gap.” After rights are adopted “on paper,” there is always more work to be done. In NGO studies literature, this has been phrased as NGOs doing what “business and government are either not doing, not doing well, or not doing often enough.”<sup>71</sup>

So what is the implementation gap? It is, as Niraja Jayal has framed it, a gap between *de jure* and *de facto* rights, which she argues can be seen as effective rightlessness.<sup>72</sup> Jayal characterises the state of rightlessness that impoverished

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<sup>69</sup> This has been noted continuously in scholarship on India. For just a few examples, see Sarada Balagopalan, “The politics of failure: street children and the circulation of rights discourses in Kolkata (Calcutta), India,” in *Reconceptualizing Children's Rights in International Development*, ed. Karl Hanson and Olga Nieuwenhuys (New York: Cambridge University Press, 2013); Akshay Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India* (Cambridge: Cambridge University Press, 2022); Myron Weiner, *The Politics of Scarcity: Public Pressure and Political Response in India* (Chicago: University of Chicago Press, 1962).

<sup>70</sup> See for instance Gabrielle Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India* (Cambridge: Cambridge University Press, 2018), 5; Harish Narasappa, *Rule of Law in India: A Quest for Reason* (Oxford: Oxford University Press, 2018); Leila Seth, *Talking of Justice* (New Delhi: Aleph Book Company, 2014).

<sup>71</sup> Levitt, quoted in Brandsen, Donk, and Putters, “Griffins or chameleons? Hybridity as a permanent and inevitable characteristic of the third sector,” 750.

<sup>72</sup> Niraja Gopal Jayal, “The Right to Have Rights. Taking Hannah Arendt to India,” in *Human Rights. India and the West*, ed. Ashwani Peetush and Jay Drydyk (New Delhi: Oxford University Press, 2015), 324.

people in India find themselves in as a situation in which people formally have both rights in Hannah Arendt's famous "right to have rights" formulation, but effectively neither. They are not deprived of Arendt's first "right," namely a state to belong to – in fact, they are most likely quite attached to a territory and have never left their state. Neither are they deprived of *de jure* rights, as India's constitution guarantees a large number of fundamental rights, and numerous subsequent legal acts and rules specify these. However, they are deprived of *de facto* enjoyment of these rights. In Jayal's words, this is "a form of quasi-statelessness, in which citizens are formally included but substantively excluded."<sup>73</sup> This gap between *de jure* and *de facto* rights can be treated simply as unfortunate and in need of redress, but we can also question the very idea of "implementation of rights." Mathur has argued that the law itself sometimes is "unimplementable,"<sup>74</sup> and Fraser that the law alone simply cannot fulfil human rights duties.<sup>75</sup> This is where NGOs come in and address the implementation gap and assist the state in its legal human rights duties. Now, which are the NGO roles studied by scholars that can be described as "duties" that fulfil the gap between *de jure* and *de facto* rights?

As we saw above, when NGOs apply a "rights-based approach," it means that they support the idea that the state is the duty bearer and citizens are rights-holders, and see it as their own role to "capacity build" and "raise awareness" so that the duty bearer and rights holders will perform their duties and rights claims properly. Many studies of local NGOs in India and elsewhere have similarly concluded that NGOs today play the roles of "mediators," "intermediaries," "brokers," "translators," "peddlers," "links," or "facilitators"

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<sup>73</sup> Ibid., 331.

<sup>74</sup> Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*. See Chapter 4 for a further discussion on "unimplementable" law and generally the idea of "implementation."

<sup>75</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*.

between the state and citizens.<sup>76</sup> They do so through what Susan Watkins et al. have called “talk”: training, awareness, information – all in all, passing on new terminology through a chain which “like funding, cascades downward.”<sup>77</sup> Ferguson and Gupta have described a typical imagination of what they call the “up there” state, the “on the ground people” or communities, and civil society as the middle latitude, the point of contact between the two.<sup>78</sup> Such characterisations highlight how NGOs’ moral legitimacy relies on the vulnerability of their target group, a group that needs some kind of representation or mediation in order to be linked to the state’s services. These studies resonate with a field of human rights-focused ethnographies, particularly Merry’s, which use the terms “vernacularisers” or “translators” about NGOs who take on roles as spreaders of information and awareness about rights.<sup>79</sup> Globally, this can be linked to human rights practice having

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<sup>76</sup> For a brief review of some of these studies, see Tanya Jakimow, *Peddlers of Information. Indian Non-Government Organizations in the Information Age* (Virginia: Kumarian Press (Stylus Publishing, LLC), 2012), chapter 3. See also Beer, Bartley, and Roberts, “Ngos: Between Advocacy, Service Provision, and Regulation,” 329; Thomas Carroll, *Intermediary NGOs: the Supporting Link in Grassroots Development* (West Hartford: Kumarian Press, 1992); Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*; Kevin O’Sullivan, *The NGO Moment: The Globalisation of Compassion from Biafra to Live Aid* (Cambridge: Cambridge University Press, 2021), 23; Sheth and Sethi, “The NGO sector in India: historical context and current discourse,” 54; 63. It should also be noted that there is a vast scholarship on mediators between state and citizens in India in general, and that NGOs are only one of many such mediators, the others being for instance political fixers or caste leaders. For some of this scholarship, see Corbridge et al., *Seeing the State: Governance and Governmentality in India*, 108; Fisher, *Nongovernments: NGOs and the Political Development of the Third World*, xi-xii; 2; Anirudh Krishna, “Gaining Access to Public Services and the Democratic State in India: Institutions in the Middle,” *Studies in Comparative International Development* 46 (2011); Devendra Upadhyay, *The Handbook of Centre-State Relations in India* (New Delhi: Integrity Media, 2019), 270.

<sup>77</sup> Susan Cotts Watkins, Ann Swidler, and Thomas Hannan, “Outsourcing social transformation: Development NGOs as organizations,” *Annual Review of Sociology* 38 (2012): 299.

<sup>78</sup> Ferguson and Gupta, “Spatializing States: Toward an Ethnography of Neoliberal Governmentality,” 983.

<sup>79</sup> Merry, “Transnational Human Rights and Local Activism: Mapping the Middle; Rajaram and Zararia, “Translating women’s human rights in a globalizing world: the spiral process in reducing gender injustice in Baroda, India.”

become a sort of humanitarianism where humanitarian actors (in this case, NGOs) help those victims who cannot claim their rights on their own.<sup>80</sup> In sum, there is an abundance of studies about the mediating roles played by NGOs, but in order to be able to better conceptualise the specific role of delivering *rights*, I suggest to link this literature to the emerging literature on recognising duty bearers beyond the state.

*1.2.1.1. A contribution to the research field of human rights duty bearers beyond the state*

It is increasingly being recognised in human rights scholarship that “various actors beyond the state are involved in the promotion and protection of human rights,”<sup>81</sup> but how might this trend be conceptualised? Based on the above discussed work on NGOs’ roles as mediators that address the implementation gap between *de jure* and *de facto* rights, I will in this study argue that what NGOs do in terms of ensuring “empowerment from below and accountability from above,”<sup>82</sup> in conjunction with implementing services for the state, can be characterised as NGOs being “gap fillers” that sustain a human rights duty bearing regime.<sup>83</sup>

The concept “duty bearing” has received much attention within law and philosophy, but not nearly enough in ethnographic studies of human rights. And it is indeed an ethnographically relevant concept, because the term – which until recently has mainly been legalistic and technical – has “vernacularised” its way through to the work of NGOs themselves. As I will exemplify in Chapters 3 and 6, small NGOs with funding from larger NGOs learn, apply, and appropriate the idea that to have a “rights-based approach” means to appeal to “duty bearers.” NGOs use the term “duty bearer” in their fund applications and daily language, and they themselves act as duty bearers by implementing rights on behalf of the state. Furthermore, as mentioned above, to many scholars duty bearing is a definitional key to the concept of

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<sup>80</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, 48.

<sup>81</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 2-3.

<sup>82</sup> Fisher, *Nongovernments: NGOs and the Political Development of the Third World*, 172.

<sup>83</sup> This argument is detailed in 7.1.3.

human rights. In what I call the “hegemonic human rights language” that I will further develop in Chapter 3, this actor is to a vast extent deemed to be the state. A hegemonic human rights language implies a state that is both strong, and willing and able to fulfil, protect and respect the rights of the citizens within its jurisdiction – but that is not the state that NGOs meet in their practice.

The roles that NGOs play in relation to the state have been studied empirically, sometimes in human rights terms, but rarely discussed in terms of duty bearing.<sup>84</sup> I will argue that the roles played by NGOs in human rights practice – as advocates, experts, service deliverers and mediators – are ways in which NGOs are given and take “gap filling” roles that sustain a human rights duty bearing regime. Because of the implementation gap between law and its enforcement in India, a significant role for NGOs is to link people to government schemes. As we will see in the empirical material presented in the following chapters, NGOs entrusted with a government program do not only implement that particular program. They also take a much broader responsibility upon themselves to ensure that their beneficiaries’ rights are fulfilled, by *inter alia*, linking rights-holders to legal duty bearers and checking that “the system” works in every situation they meet in the field. All of this, I argue, is human rights implementation, and NGOs are key actors in this practice.

Some scholars have argued that “non-state actors”<sup>85</sup> in general have a duty bearer role in human rights practice, but such scholarship often focuses on

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<sup>84</sup> The roles that NGOs play in human rights practice can of course be conceptualised under a number of other frameworks, for instance global governance and governmentality (see McGaughey, “From gatekeepers to GONGOs: A taxonomy of NonGovernmental Organisations engaging with United Nations human rights mechanisms,” 29; Shirin M. Rai, “From the Nation-State to Global Governance: A Gendered Analysis,” in *The State in India: Ideas, Norms and Politics*, ed. Vidhu Verma (Hyderabad: Orient Blackswan, 2019); Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India.”). I do not find such frameworks inadequate, but I consider the conceptual framework of human rights duty bearing to be understudied despite its potential for studying what roles NGO play specifically in human rights practice.

<sup>85</sup> See Chapter 3 for a critique of this term.

multinational corporations, international financial institutions and inter-governmental organisations,<sup>86</sup> and not on domestic NGOs. Furthermore, this type of scholarship often has a legal focus as it seeks to answer whether non-state actors should have legal human rights duties. My aim is to discuss duty bearing with an interdisciplinary lens. Duty bearing is often only treated cursorily in non-legal human rights studies that take their point of departure in human rights as practice in context. In such “rights-in-context” studies,<sup>87</sup> the notion of duty bearing, a crucial aspect of rights, is often left unpacked. Since duty bearing to many is a definitional key to the concept of human rights, the study of duty bearing in the vernacular will also add to our understanding of human rights in the vernacular.

As of now, NGOs as “partners” of the state are in a grey zone when it comes to the debate on duty bearers of human rights. They are increasingly part of the state apparatus under neoliberal policies of outsourcing with the consequence that human rights NGOs become less advocacy-focused and more service deliverers. Traditional service delivering NGOs, on the other hand, are increasingly embracing the “rights-based” language. The two types of NGOs therefore enter a blurred zone where they are neither with or against the state. Framing it as duty bearing becomes important for the question of whether we can still talk of “rights” when the state is not the only or primary provider or protector.

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<sup>86</sup> See for instance Margot E. Salomon, Arne Tostensen, and Wouter Vandenhole, eds., *Castings the Net Wider: Human Rights, Development and New Duty-Bearers* (Antwerp: Intersentia, 2007); Philip Alston, *Non-State Actors and Human Rights* (Oxford: Oxford University Press, 2005).

<sup>87</sup> See for instance Koen De Feyter, “Localising Human Rights,” in *Economic Globalisation and Human Rights*, ed. Wolfgang Benedek, Koen De Feyter, and Fabrizio Marella (Cambridge: Cambridge University Press, 2007); Saurabh Gupta, “From Demanding to Delivering Development: Challenges of NGO-Led Development in Rural Rajasthan, India,” *Journal of South Asian Development* 9(2) (2014); Jayal, “The Right to Have Rights. Taking Hannah Arendt to India;” Sumi Madhok, “Five Notions of Haq: Exploring Vernacular Rights Cultures in South Asia,” *New Working Paper Series - London School of Economics, Gender Institute*, no. 25 (2009); Merry, “Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization;” Richard A. Wilson, *Human Rights, Culture and Context* (London: Pluto Press, 1997).

In sum, it is certain that “duty bearing” is a key part of hegemonic human rights language, but it remains to be studied as part of vernacular rights languages. Just as the notion of “rights” should and has been explored from both moral, legal and ethnographic aspects, so should the notion of duty bearing of these rights. Adding such an approach to the literature is important because duty bearing plays out in real life in ways that rarely correspond directly to legal ideas. I will, through this study, show that duty bearing of rights is conceptualised on different planes. In the hegemonic human rights language that we find in international law and much normative human rights theory, states are conceptualised as the main duty bearers of rights. On the “everyday” plane, however, I will evince how there is a co-existence of ideas of whom duty bearers of rights should be – from the state, to partnerships, to civil society, to voluntary social workers, and individuals. Thus, to human rights scholarship, I am contributing ethnographic material and insight to a growing literature on the diversification of human rights duty bearers beyond the state. I now turn to the second research field that I contribute to, namely that on the relationship between human rights and neoliberalism.

### 1.2.2. Neoliberalism, human rights and NGO-state partnerships

It is not a new observation, in India or globally, that neoliberalism and human rights have risen simultaneously. Yet, it is a seeming conceptual paradox that states should embrace neoliberalism – which demands a privatising state – as well as human rights – which demands a state that progressively can take responsibility for, and fund, the respect, protection and fulfilment of human rights. The scholarship on the relation between neoliberalism and human rights is vast, and I will consequentially omit certain important debates,<sup>88</sup> in order to focus on the category of the state-contracted, rights-based NGO as

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<sup>88</sup> I will not go into the conversation between Samuel Moyn, Jessica Whyte and Susan Marks who debate questions such as whether neoliberal thinkers significantly altered today’s paradigm of human rights (Jessica Whyte, *The Morals of the Market: Human Rights and the Rise of Neoliberalism* (London: Verso, 2019)) or whether human rights are the “powerless companion” of a powerful neoliberal age (Samuel Moyn, “A Powerless Companion: Human Rights in the Age of Neoliberalism,” *Law & Contemporary Problems* 77 (2014)).



not only an “NGO role” in human rights practice, but also as a particular neoliberal phenomenon.

Neoliberalism generally refers to the propagation of “the doctrine of market principles in all sectors of society.”<sup>89</sup> Of course, neoliberalism in practice looks very different in different contexts, and in Chapter 4 I will dive into the autocratising type of neoliberalism that is present in contemporary India. In this section, I will briefly discuss neoliberal policies and their effect on NGOs as a global trend.

In order to explain the global rise of NGO-state partnerships as part of neoliberalism, we need to go back to the 1980s<sup>90</sup> and the structural adjustment programmes of the International Monetary Fund and the World Bank, which promoted a retreat of the developmental state in many postcolonial countries along with privatisation of public services.<sup>91</sup> As a result, the 1990s saw an “NGO boom,”<sup>92</sup> as NGOs “quickly filled this space of providing public services that previously were the responsibility of the state.”<sup>93</sup> Of course, it is hard to find a state that in practice had taken this responsibility fully even prior to the neoliberal turn, but the point is that the neoliberal turn brought a shift in both policies and discourse: it increasingly became the norm to,

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<sup>89</sup> Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 566.

<sup>90</sup> This is not to say that the phenomenon of NGOs as social service providers did not exist before the end of the Cold War (for the Indian example, see Sen, “Non-profit organisations in India: historical development and common patterns”), but rather that the 1980s and 1990s were defining in a global shift in NGO roles, when NGOs as actors in liberal markets became particularly common (Sangeeta Kamat, “The privatization of public interest: theorizing NGO discourse in a neoliberal era,” *Review of International Political Economy* 11, no. 1 (2004)).

<sup>91</sup> Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 566.

<sup>92</sup> Mark Schuller, “Introduction to Part I: Dilemmas of Dual Roles, Studying NGOs, and Donor-Driven ‘Democracy,’” in *Cultures of Doing Good. Anthropologists and NGOs*, ed. Amanda Lashaw, Christian Vannier, and Steven Sampson (Tuscaloosa: University of Alabama Press, 2017), 24.

<sup>93</sup> Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 566.

formally and officially, outsource welfare provisions, including social rights, to private providers. While the tendency was not only to privatise services to NGOs, but also to for-profit companies, some services were, due to their non-profitability, more convenient to give to NGOs, and this was legitimised in the language of NGOs' "closeness to the poor, committed leadership, and capacity to build access to services."<sup>94</sup>

Another important aspect of the neoliberal turn is that it is argued to include a neocolonial turn, as Northern donor agencies fund development NGOs in the Global South, reinforcing postcolonial dependencies.<sup>95</sup> These debates are not central to my case, since CHILDLINE is primarily funded by the Indian government and not foreign donors. However, neocolonialism has wide-ranging ramifications, some of which I will discuss in more detail in Chapter 6. Furthermore, the very idea of imposing concepts from international law – such as human rights and duty bearing – onto existing practices, can be interpreted as a neocolonial practice, which I return to in Chapters 3 and 6, as well as in a discussion of my own positionality vis-à-vis the research in Chapter 2.

The argument that the end of the Cold War fueled a global growth of NGOs has been laid out by numerous scholars,<sup>96</sup> leading to a theorisation of NGOs as “a key feature of neoliberal globalization.”<sup>97</sup> The idea that NGOs represent civil society can thus be argued to be a neoliberal conception of civil society, as opposed to an “activist conception” in which NGOs are seen to be the

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<sup>94</sup> David Lewis, “Issues and Priorities in Non-governmental Organisation Research,” *Journal of Health Management* 8, 2 (2006): 184.

<sup>95</sup> Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 566.

<sup>96</sup> Beer, Bartley, and Roberts, “Ngos: Between Advocacy, Service Provision, and Regulation,” 325; Inderpal Grewal, “Introduction to Part II: Life in NGOs,” in *Cultures of Doing Good. Anthropologists and NGOs*, ed. Amanda Lashaw, Christian Vannier, and Steven Sampson (Tuscaloosa: University of Alabama Press, 2017), 116; Lang, *NGOs, Civil Society, and the Public Sphere*, 71; Lewis, “Issues and Priorities in Non-governmental Organisation Research,” 184; Stefan Toepler et al., “The Changing Space for NGOs: Civil Society in Authoritarian and Hybrid Regimes,” *Voluntas* 31 (2020): 651.

<sup>97</sup> Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 566.

embodiment of social movements.<sup>98</sup> Although I in Chapter 6 will argue that the distinction between social movements and NGOs is a spectrum rather than two separate conceptions of civil society, there is a point to be made about the global structural conditions under which NGOs proliferated in the 1980s and 1990s, and it is certain that NGOs both globally and in India are conditioned by neoliberal policy environments.

The language used about and within NGOs also moved towards more corporatist and managerial terms as a consequence of the neoliberal turn, where the “partnership” rhetoric became dominant. Interestingly, this coincided with the mainstreaming of the “rights-based approach” in NGOs and international organisations. For instance, the World Bank embraces both a human rights and a partnership language, as human rights have become part of “good governance” and “civil society actors” are incorporated into governance in “partnerships.”<sup>99</sup> As such, “civil society” – often represented by NGOs – has become international development’s preferred and legitimate representative actor.<sup>100</sup> Such a “partnership” for rights implementation implies that everyone – all so-called “stakeholders” – should be involved in and committed to human rights, and that everyone has responsibility. What to many human rights theorists are quintessentially public – rights claims from the state – becomes private, or at least privatisable. We thus again see the tension and contradictions in imaginations of what NGOs should be and do in human rights practice, this time through the global context of neoliberalism.

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<sup>98</sup> Kaldor, cited in Lang, *NGOs, Civil Society, and the Public Sphere*, 91. See also Neera Chandhoke, “Civil Society,” *Development in Practice* 17, no. 4/5 (2007): 608; Fisher, Jenkins, Kamat and Kothari, cited in Erica Bornstein and Aradhana Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” *American Ethnologist* 43, no. 1 (2016): 80.

<sup>99</sup> Franco Moretti and Dominique Pestre, “Bankspeak: The Language of World Bank Reports,” *New Left Review* 92 (2015): 83.

<sup>100</sup> Kamat, “The privatization of public interest: theorizing NGO discourse in a neoliberal era,” 157.

#### 1.2.2.1. *Partnerships: promising or dangerous?*

In this study, I employ “NGO-state partnerships” to denote a practice where the state outsources its responsibility to NGOs, recognising the fact that there are always significant power relations at play in this practice. In the literature, NGO-state partnerships have both been praised and critiqued. On the one hand, it is difficult to disagree with the idea of “inclusive partnerships” between different sectors of society when it comes to human rights. The fact that the state enters into dialogue with a so-called “community” or “civil society” can indeed be lauded as “holistic approach[es] to implementation” to address the impossibility of state centrality in human rights implementation.<sup>101</sup> On the other hand, if we interpret partnerships as privatisation, as Nowak has argued, “far-reaching privatisation makes it difficult – or impossible – for states to comply with their human rights obligations” and “may qualify as a ‘deliberate retrogressive measure.’”<sup>102</sup> A key tension is that the NGOs who unwittingly have become part of a neoliberal market of outsourcing often simultaneously advocate for a strong role for the state. This tension is epitomised by Christopher Beer et al. as one between

...calls for the expansion of rights and protections – that is, for state building – on the one hand, and a trend toward state retrenchment on the other. If the growth of governance beyond the nation-state has empowered NGOs, the neoliberal project of minimizing states’ capacities to buffer citizens from the market has made it difficult for NGO advocacy to result in the institutionalization of new rights and protections. One partial resolution of this contradiction involves NGOs themselves taking on greater roles as regulators and service providers.<sup>103</sup>

Contributing to the scholarly discussion on this tension, I will through my case study of CHILDLINE, show how NGO-state partnerships are both promising and precarious. On the one hand, by engaging NGOs in implementing a helpline for children, rights become more accessible through

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<sup>101</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 160; 278.

<sup>102</sup> Nowak, cited in *ibid.*, 147.

<sup>103</sup> Beer, Bartley, and Roberts, “Ngos: Between Advocacy, Service Provision, and Regulation,” 328.

the approachability of NGOs. On the other hand, a precariat of underpaid semi-governmental workers is created, workers who in practice – but not formally, since it would give them rights to job security and government pensions – work for the Indian state.

Another consequence of NGOs entering into contractual partnerships with the state is that they are forced to conform and adapt to requirements placed on them by the very institution that they are seeking to transform, a phenomenon that in organisational NGO studies is known as “mission drift.”<sup>104</sup> This refers to when an NGO’s “mission” changes in accordance with the external actors’ – in this case, the state’s – agendas and priorities. Partnering with the state can lead to difficult balancing exercises between advocacy (“against” the state) and service delivery (on behalf of the state), a balance I will analyse in-depth in the case of CHILDLINE. I argue that NGO workers adopt different strategies when they partner with the state, as they homogenise and move away from their original missions, a point which I will return to in Chapters 5 and 6 when analysing CHILDLINE. In other words, partnerships between NGOs and the state result in a tension where the state has power in defining what should be prioritised, but NGOs also actively and strategically continue their own missions within this framework.<sup>105</sup>

Indeed, one of my findings is that even though NGOs often find it hard to work within neoliberalism and autocratisation, it does not necessarily mean that political activism against this very political environment disappears. Of course, neoliberalisation of NGOs have led to a professionalisation and

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<sup>104</sup> Roger Bennett and Sharmila Savani, “Surviving Mission Drift: How Charities Can Turn Dependence on Government Contract Funding to Their Own Advantage,” *Nonprofit Management and Leadership* 22, no. 2 (2011).

<sup>105</sup> There are several other frameworks from organisational theory that apply to NGO-state partnerships, such as resource dependence theory (Jeffrey Pfeffer and Gerald R. Salancik, *The external control of organizations: A resource dependence perspective* (Stanford: Stanford University Press, 2003)). However, I will not apply these frameworks since my main purpose is to study the phenomenon specifically with a human rights lens, not from the lens of organisational theory. For these types of studies, see for instance Malin Arvidson and Fergus Lyon, “Social Impact Measurement and Non-profit Organisations: Compliance, Resistance, and Promotion,” *VOLUNTAS: International Journal of Voluntary and Nonprofit Organizations* 24, no. 2 (2013).

depoliticisation of social change known as “NGOisation.”<sup>106</sup> But at the same time, as Madhok has pointed out, the ascendance of neoliberal policies in India has led to increased rights mobilisations. And not only have these movements emerged, they have also succeeded in getting new rights recognised, such as the right to food and the right to information.<sup>107</sup> Madhok calls it the “‘push and pull’ of rights in the long running discourse on developmentalism in postcolonial India, which took a decisive ‘rights-based’ turn coinciding just at the point of the liberalisation of the Indian economy in the early 1990s.”<sup>108</sup> Alf Nilsen has similarly argued that the increase of rights-based legislation under the 2004-2014 United Progressive Alliance rule<sup>109</sup> “was first and foremost intended to serve as a vehicle that would enable the party to win popular support for a hegemonic project that ultimately attempted to deepen the neoliberalisation of the Indian economy.”<sup>110</sup> But at the same time, Nilsen writes, rights-based legislation has brought some significant concessions to the claims and demands of subaltern movements.”<sup>111</sup> This is a discussion I delve deeper into in Chapters 4 and 5, where I make a contribution to the study of the simultaneous rights ascendancy and neoliberal ascendancy in India, and show how CHILDLINE was both a reaction to and a part of the neoliberal ascendancy in India. India is furthermore currently undergoing an autocratisation which limits the scope for NGOs to conduct advocacy work, receive foreign funding and more.<sup>112</sup>

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<sup>106</sup> Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 567.

<sup>107</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, 168.

<sup>108</sup> *Ibid.*, 125-26.

<sup>109</sup> See Chapter 4 for more context about this government period in India.

<sup>110</sup> Alf Gunvald Nilsen, “India’s Turn to Rights-Based Legislation (2004-2014): A Critical Review of the Literature,” *Social Change* 48, no. 4 (2018): 662.

<sup>111</sup> *Ibid.*

<sup>112</sup> Sten Widmalm, *Routledge Handbook of Autocratization in South Asia* (London; New York: Routledge, 2022); Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 570.

My research will thus also contribute to documenting the current changes for NGOs in this simultaneously neoliberal and autocratising environment.

In sum, NGOs' relation to neoliberalism is complex, because they most often are both a symptom of a state's privatisation policies, but also comprised by politically conscious people who advocate for a stronger state. Many NGO projects are packaged with both human rights ideals and neoliberal ideals. As Aradhana Sharma notes, it is a "neoliberal logic" when "empowerment" and "poverty alleviation" are shifted "from state agencies to civil society institutions."<sup>113</sup> Regardless of whether one is critical or positive towards this role of NGOs as private actors that the state can contract for developmental purposes, the fact remains that the phenomenon is unfolding globally.<sup>114</sup> It has meant that NGOs in many ways have begun playing the role of an extended state.<sup>115</sup> It does not necessarily mean that the state retreats, but rather that it transfers "the operations of government" to non-state actors in what Ferguson and Gupta have called "transnational neoliberal governmentality."<sup>116</sup> I now turn to place my own study within this research field.

#### *1.2.2.2. An empirical contribution to studying the relation between human rights and neoliberalism*

My contribution to this debate will be to show how, in practice, neoliberalism co-exists with human rights – and, indeed, with a myriad of other ideas about

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<sup>113</sup> Sharma, "Crossbreeding institutions, breeding struggle: Women's empowerment, neoliberal governmentality, and state (re)formation in India," 73.

<sup>114</sup> For specific illustrations, see Muhammad, "Rise of the Corporate NGO in Bangladesh" on the corporatisation of NGOs in Bangladesh; Aviva Sinervo, "Interdependent Industries and Ethical Dilemmas. NGOs and Volunteer Tourism in Cusco, Peru," in *Cultures of Doing Good: Anthropologists and NGOs*, ed. Amanda Lashaw, Christian Vannier, and Steven Sampson (Tuscaloosa: University of Alabama Press, 2017) for a social sector dependent on voluntourism in Peru; and Olga Nieuwenhuys, "By the Sweat of their Brow? 'Street Children', NGOs and Children's Rights in Addis Ababa," *Africa: Journal of the International African Institute* 71, 4 (2001) for the unfolding of a neoliberal child rights logic in Ethiopian NGOs.

<sup>115</sup> Feldman, cited in Lang, *NGOs, Civil Society, and the Public Sphere*, 61.

<sup>116</sup> Ferguson and Gupta, "Spatializing States: Toward an Ethnography of Neoliberal Governmentality," 989; 90.

how to “do good,” “serve” or “empower.” In Chapters 5 and especially 6, I will analyse this value mixing that goes on in NGOs, to show that neither human rights nor neoliberalism are all-encompassing ideologies that exist in any “pure” form. The practice in NGO-state partnerships is rather characterised by, as introduced above, a seeming mess of different conceptual influences. My study of the NGO-state partnership CHILDLINE is a space where both neoliberal and anti-neoliberal sentiments and practices are traceable. The structure of the helpline is a symptom of neoliberal policies, and the language used to promote it is highly marketised. Yet, it is also a rights-based network of activist child protection professionals who advocate for stronger child protection laws from the state. It is a context in which “rights” is not a radical discourse of entitlement, but a framing of state programmes in a language that is internationally and nationally legitimate. By demonstrating the complexities of the neoliberalism-rights relationship through ethnographic explorations of the webs of resistance and support to neoliberal policies, I contribute to studying what Madhok has called “political struggles [that] take place within specific historical conditions resulting from particular encounters with neoliberalism and are consequently, also shaped by it.”<sup>117</sup>

Not only the case of CHILDLINE, but also the case of India more broadly, brings interesting empirical insights into the relationship between neoliberalism and human rights. The present Hindu nationalist and market-oriented government in India is at the same time pursuing neoliberal policies of public-private partnerships and outsourcing social services to private actors, de-funding and tightening regulation of NGOs, especially those working on civil and political rights with international funds, and has relatively recently adopted a number of “rights-based” laws and schemes. This leaves unexplored the role of NGOs as sub-contractors for rights-based social services. As sub-research questions, I ask whether it is their role as a government implementer or their role as a human rights-based organisation that is predominant in their daily work. I also ask how these two roles might be overlapping or inhibiting each other in practice. By answering these questions, I intend to contribute to the study of Indian rights-based laws and neoliberalism. In particular, this

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<sup>117</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, 24.



relationship has not yet been studied from the perspective of *children's* rights. The literature has focused on rights-based movements such as those for the right to food, information, work and more. By adding an analysis of a series of child protection laws in India, I will in Chapter 4 place these laws within a larger national rights ascendancy. I will show how children's rights became framed as a "soft" rights issue that both the state and NGOs considered non-threatening compared to other rights issues.

As such, I intend to both contribute with an empirical case – NGO-state partnership for children's rights in India – but also to, through this empirical study, theoretically discuss the co-existence of human rights and neoliberalism. The sub-research questions I explore in this context are the following: If the NGOs within these partnerships work "rights-based," are they countering the neoliberal tendency, or are they applying a version of working "rights-based" that is compatible with neoliberalism? How do NGO workers negotiate their own ideological and political allegiances within a neoliberal policy environment? The answers to these questions, which will be elaborated in Chapters 5 and 6, can help us theoretically understand how "rights" are conceptualised when they are provided by NGOs through partnerships with the state in a simultaneously rights-based, neoliberal, and autocratising state.

### 1.3. Structure of the study

The present chapter has introduced the topic of NGO-state partnerships within the field of human rights studies. Hereunder, I have carved out my contributions to the literature: one being an ethnographic study of a specific NGO-state partnership in India which will contribute to our knowledge of the relationship between neoliberalism and human rights and the role NGOs play as "gap fillers" in human rights practice; and the other being an empirically grounded discussion of the concept of the "duty bearer" of human rights, a key concept in legal and philosophical human rights theory but rarely explored ethnographically.

The next chapter presents the study's methodology. Here, I will develop a methodological approach that combines ethnography with explorative conceptual analysis. I will also outline more specifically how the study was designed and conducted, and reflect on research ethics, particularly on my own positionality as a researcher in relation to the topic and the research participants.

Chapters 3 and 4 serve to lay some further conceptual and contextual foundations for the study. Chapter 3 locates the hegemonic human rights language in international legal documents in which an abstract "ratifier state" is *the* duty bearer of human rights. The chapter both consists of a discussion of previous literature as well as an empirical analysis of how the UN Committee on the Rights of the Child (as an illustration of international human rights law) frames the category of NGOs and their potential duty bearing roles. In the chapter, I argue that the uncertainty and ambiguity with which the state-centric hegemonic human rights language treats NGOs are part of upholding the contradictory expectations of NGOs in human rights practice: NGOs are framed simultaneously as moral watchdogs of potentially malign states, as "non-state actors" which are potential violators of human rights, and as "partners in implementation" of human rights. I also show that due to the diplomatic nature of international legal document production, the language that we find "on paper" emanating from the UN, is strangely distant from political realities of actual state practice – such as, in my case, the neoliberal, rights-based and autocratising Indian state. Finally, I use this extensive comment on the state-centric hegemonic human rights language to argue that in order to decentralise it, Madhok's framework of "vernacular rights cultures" holds potential for analysing NGOs and the duty bearer concept from new perspectives.

Chapter 4 zooms in on the Indian state. It is a chapter that contextualises what the key concepts of state, rights, neoliberalism, and NGOs mean in the Indian case through previous scholarship, but also analyses laws and policies as primary documents. In the chapter, I demonstrate how the roles of NGOs are complex and dependent on the state in which they operate, which in India have to do with both a neoliberal ascendancy, a rights ascendancy and an autocratisation that shrinks the space for civil society, which together result in

a demand that NGOs should be “non-political” rights implementers. These findings complicate the state-centred view of the human rights duty bearer discussed in Chapter 3, showing how NGOs cannot simply work as moral watchdogs or benign partners, but have to negotiate particular political conditions.

Chapters 5 and 6 are based on more traditional ethnographies of NGOs in India. Chapter 5 demonstrates that NGO-state partnerships for rights implementation are characterised by being “hybrid” organisations strategically adopting both “state” and “NGO” values and practices. The chapter analyses the large NGO-state partnership CHILDLINE, and shows that, in this case, NGOs and the state overlap so much that a separation is hardly visible, and in many instances, they act together as allies. In line with the previous chapter, Chapter 5 argues that in this “partnership,” NGOs have become “implementers” of rights. I furthermore show how CHILDLINE’s appeal to the duty of responsible citizens and to partnerships between all “stakeholders” is evidence of an understanding of child rights duties as not state-centred, but rather as a concept grounded in civic duty.

Chapter 6 moves to a micro-level as it is based on ethnographies of two small child rights NGOs that are contracted under CHILDLINE. This chapter demonstrates that “partnering” with the state has significant impact on small NGOs’ values and strategies around working “rights-based.” I show how the organisational identities of the two studied NGOs were constructed as morally superior to the state bureaucracy due to particular virtuous values. I argue that an NGO’s origin story, founder, values, donors, and the regulating state are all part of creating such an organisational identity of being morally separate from the state, in order to legitimise NGO roles in society. The two NGOs that I studied each sought to maintain their unique organisational identities and values, but their values were also homogenised through donors and through the regulating state. NGO personnel saw the state’s human rights duties as legal, ideal, but rarely fulfilled; and their own human rights duties as voluntary, non-ideal, but fulfilled. I also show that in a context like India with economic liberalisation, an outsourcing of social services and selective state retreat, NGOs cannot always, in a “rights-based” manner, appeal to the state as the ideal, effective and legal duty bearer it is envisioned to be in human

rights law and by international donor agencies. Instead, NGOs have to take responsibility for children's rights into their own hands, or themselves outsource or instill a sense of responsibility into their beneficiary communities – which again is evidence of a conception of human rights duties further away from the hegemonic one.

Overall, Chapters 3-6 show how international law, the Indian state, and large and small NGOs are all part of upholding the contradictory imaginations of NGOs in human rights practice – the expectation to be working both “outside” the state until the state steps up to do the work itself, and “inside” the state as permanent implementers. The chapters all end with characterising the particular understanding of “duty bearing” at play in the given context.

Chapter 7 is both a summative discussion of my findings and contributions as well as an open reflection on possible theoretical studies that I have laid the groundwork for. I present my conceptual findings regarding how ideas about human rights and duty bearing are produced through practices on the spectrum from hegemonic to vernacular. In my case study, I found that perceptions and practices of duty bearing for rights were influenced by ideas about neoliberalism, rights, and service. But while these ideas and practices co-existed in CHILDLINE, the ideas propagated by the state – especially a neoliberal conception of rights – had a certain power in affecting and restricting NGOs' practices. I therefore argue that well-meaning human rights implementing “partnerships” can become complicit in neoliberal policies through creating a precariat of semi-governmental workers without the security, salary and prestige that come with a government job. However, I also highlight that CHILDLINE at times played an important role in resisting the neoliberal turn, as they lobbied for rights-based policy changes, and some of their sub-contracted NGOs had deep rights-based roots and continued to work for marginalised people's rights. Furthermore, I present the finding that while the public and voluntary sectors were thoroughly entangled in practice, the ideal types of “state” and “civil society” were necessary for NGO-state partnership workers to be able to conceive of themselves as a hybrid of the two. I also show that NGOs as “partners” of the state found a role in being “gap fillers” that were part of a state's human rights duty bearing regime. In the chapter, I reflect on the possibility of a revised conceptualisation of

“human rights duty bearing” based on my empirical findings. Finally, I summarise the three most important contributions of the thesis: a contribution to the critical scholarship on NGO roles, a methodological contribution to other ethnographers of human rights practice, and a contribution to the scholarship on human rights in the vernacular.

## 2. Methodology

In this chapter, I lay out the study's methodology. Based on the objective of scrutinising NGO-state partnerships by drawing on human rights theory, I developed an interdisciplinary methodological approach that combines ethnography and explorative conceptual analysis. I first introduce this approach on a more general level (2.1.). Then I outline how my specific study was designed and conducted (2.2.). Finally, I reflect on research ethics, particularly on my own positionality as a researcher in relation to the topic and the research participants (2.3.).

### 2.1. Combining ethnography and explorative conceptual analysis

My overall methodological approach is a combination of ethnography and conceptual analysis. In this section, I will show how this combination is useful for documenting the ways in which vernacular and hegemonic human rights conceptions are contextually created through practice. I argue that an ethnographic study of the intricacies of bureaucratic and activist practices together with an explorative conceptual analysis of, in this case, “duty bearing for rights” can provide new possibilities for combining the study of a concept with its practices, and for conceptual theorising that takes “the everyday” seriously.

The first pillar of this approach is ethnography, a method that centres around the researcher's presence in a “field” defined by a research question.<sup>118</sup>

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<sup>118</sup> Raymond Madden, *Being Ethnographic: A Guide to the Theory and Practice of Ethnography*, 4th ed. (London: SAGE, 2017), 52.

Ethnographers use various tools, many of which require the researcher to place herself physically in the social situations she studies, build rapport with people and experience and analyse everyday situations. Traditionally, it consists of participant observation and in-depth interviews which together serve to empirically and meticulously document “activities, experiences, and structures of social lives.”<sup>119</sup> But ethnography is not only the analysis of interaction between people. It can also include document analysis, digital sources, and various other types of multi-sitedness.<sup>120</sup> With ethnographic tools, a researcher can for instance illuminate the social functions of a document (what it contains, how it was created and circulated etc.)<sup>121</sup> or interpret a digital interaction between people.<sup>122</sup> In other words, ethnography examines “what people do routinely – practices – the way they talk about their social world – meanings and modes of discourse – and the social structures within which they live and work – social networks and institutions.”<sup>123</sup>

The other pillar of my method is what I call an explorative conceptual analysis. Conceptual analysis is the study of concepts, or the “building blocks” of thought.<sup>124</sup> This can be done in many ways, but my approach is to empirically document how concepts are used and practiced, inspired by Sally Haslanger who argues that through such empirical documentation, we can “elucidate the social matrix (history, practices, power relations) within which ‘we’

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<sup>119</sup> Erica Bornstein, “Introduction to Part III: How to Study NGOs Ethically,” in *Cultures of Doing Good. Anthropologists and NGOs*, ed. Amanda Lashaw, Christian Vannier, and Steven Sampson (Tuscaloosa: University of Alabama Press, 2017), 192.

<sup>120</sup> Akhil Gupta and James Ferguson, *Anthropological Locations: Boundaries and Grounds of a Field Science* (Berkeley; Los Angeles; London: University of California Press, 1997); Gregory Feldman, “If ethnography is more than participant-observation, then relations are more than connections: The case for nonlocal ethnography in a world of apparatuses,” *Anthropological Theory* 11, no. 4 (2011): 376.

<sup>121</sup> Annelise Riles, *Documents: artifacts of modern knowledge* (Ann Arbor: University of Michigan Press, 2006).

<sup>122</sup> Genevieve Bell et al., *The Routledge Companion to Digital Ethnography* (New York: Routledge, 2017).

<sup>123</sup> Merry, “The Potential of Ethnographic Methods for Human Rights Research,” 141.

<sup>124</sup> Johan Olsthoorn, “Conceptual analysis,” in *Methods in analytical political theory*, ed. Adrian Blau (Cambridge: Cambridge University Press, 2017), 153.

discriminate between things that are [the concept in question] and those that aren't."<sup>125</sup> In other words, we analyse both what people have in mind when they think of and use a certain concept, but also "the social matrix where our concepts do their work."<sup>126</sup> Haslanger points out that there are important distinctions between the "manifest" or explicit and public concept, and the "operative" concept which is "the more implicit, hidden, and yet practiced one."<sup>127</sup> These distinctions will be valuable for my analysis, as we will see how, for some people, an understanding of duty bearing as the state's job was their manifest and public conceptualisation, but when it came to how they actually practiced duty bearing, they demonstrated that many more actors beyond the state were necessary for taking responsibility for rights.

The combination of ethnography and explorative conceptual analysis leads us back to the frameworks of vernacularisation and vernacular rights cultures, which both can help elucidate how people engaged in human rights work or human rights struggles conceptualise "rights." Importantly, "rights" as a concept does not exist in a conceptual vacuum, but interacts with other ethical concepts, and that is where ethnography is valuable. In order to be able to study this conceptual interaction, with all the overlaps and messiness resulting from people drawing on a number of seemingly contradictory conceptual influences, it is necessary to not only look for the use of *one* concept (e.g. "duty"), but also to study the histories and meanings of other concepts found to be existing within the same semantic field.<sup>128</sup> If we do not do this, we might "crowd out alternative ethical visions" than the ones we are looking for – in my case, those related to human rights – "such as those based on need, well-being, care or responsibility, that may effectively help us diagnose,

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<sup>125</sup> Haslanger, "What Are We Talking About? The Semantics and Politics of Social Kinds," 19-20.

<sup>126</sup> Ibid., 14.

<sup>127</sup> Ibid.

<sup>128</sup> A semantic field is a cluster of concepts within a discourse. See Jan Iversen, "Text, Discourse, Concept: Approaches to Textual Analysis," *KONTUR* 7 (2003).



comprehend and work towards ameliorating specific social wrongs.”<sup>129</sup> I have therefore studied both the uses and translations of the key concepts of my analysis – rights and duties – as these were expressed by informants or in documents in English or Hindi,<sup>130</sup> but I also paid attention to other ethical concepts that were used in the same contexts, such as “*sevā*” or “empowerment.” In addition, it is also important to not only treat these other ethical concepts that are found in a particular context as “vernacularisations” of human rights, because it risks “indigenising” concepts, that is, treating empirically observed concepts as static, localised and “pre-existing” and rights as dynamic, traveling and “imported.”<sup>131</sup> Taking into consideration this critique formulated by Madhok, I apply a similar type of analysis to the rights concept, that was deductively “tested,” and to other ethical concepts that were inductively “discovered.” I call this approach “explorative” because my aim is not only to describe the operational and everyday uses of human rights “duty” and “responsibility,” but also to explore the wider ethical languages in which these uses are embedded.

My final point here concerns normative theorising. My aim is empirical documentation and critical conceptual analysis rather than “to develop more accurate concepts.”<sup>132</sup> However, that does not mean that my findings cannot be used for normative theoretical purposes by others. In the concluding chapter, I will suggest the future conceptual studies that this study’s findings could generate: given the multitude of uses of and influences on the duty

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<sup>129</sup> Jane K. Cowan, “An Obligation to ‘Support Human Rights’ Unconditionally is Misguided Moralism,” in *Human Rights: An Anthropological Reader*, ed. Mark Goodale, Blackwell Readers in Anthropology (Chichester: Blackwell Publishing Ltd., 2009), 204.

<sup>130</sup> A detailed conceptual analysis of a “right’s” Hindi translations was not my focus. For this, see Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*; Rajaram and Zararia, “Translating women’s human rights in a globalizing world: the spiral process in reducing gender injustice in Baroda, India;” Purushottama Bilimoria, “Is Adhikāra good enough for ‘Rights’?” *Asian Philosophy* 3, no. 1 (1993).

<sup>131</sup> See Sumi Madhok, “Developmentalism, Human Rights, and Gender Politics. From a Politics of Origins to a Politics of Meanings,” in *Human Rights. India and the West*, ed. Ashwani Peetush and Jay Drydyk (New Delhi: Oxford University Press, 2015), 101.

<sup>132</sup> Haslanger, “What Are We Talking About? The Semantics and Politics of Social Kinds,” 12.

bearer concept and the difference between its hegemonic and vernacular expressions, is the concept valuable? Should it be revised? As such, I am not critiquing the existence of normative human rights theory, but rather arguing for the importance of this theory to be empirically informed. My study should be seen as a detailed ethnographic groundwork that enables such an endeavour.

In sum, the benefit of combining ethnography with explorative conceptual analysis is that it allows us to study how concepts are shaped not only through people's conceptualisations, but also through their practices. In my case, the practice of state-NGO hybridity will stand in distinct and curious contrast to people working within this hybridity who themselves conceptualise "the state" and "NGOs" as separate ideal types (in their, in Haslanger's terms, "explicit" conceptualisations as opposed to their practiced conceptualisations<sup>133</sup>). While conceptual analysis – even in its most empirically grounded and descriptive forms – tries to avoid to "owe obedience to the everyday concept,"<sup>134</sup> ethnography is, on the contrary, exactly characterised by privileging "the everyday" as an object of study. I want to take the everyday seriously in conceptual analysis, because only if we do so can we document conceptual use in practice. Ethnographically developed theory does not aim to logically explain or delineate the definitions of concepts. Instead, with ethnography, I aspire to embrace the messiness and complexity with which concepts are used in practice. Having now outlined the core tenets that underpin my research design and methods, I turn to describing how the study has been more concretely conducted.

## 2.2. Research design and methods

In this section, I will outline my research design and methods. First, I introduce CHILDLINE as a field site (2.2.1), then a motivation for my

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<sup>133</sup> Ibid., 14.

<sup>134</sup> Sally Haslanger, "Gender and Race: (What) Are They? (What) Do We Want Them To Be?" *NOÛS* 34, no. 1 (2000): 34.

ethnographic presence in four specific sites (2.2.2.), and finally how I coded, analysed and interpreted the data that emerged from the ethnographic studies (2.2.3.).

### 2.2.1. CHILDLINE India as field site and case study

I defined an ethnographic field revolving around, first, a specific country and then, a specific NGO-state partnership, namely the Indian national helpline for children, CHILDLINE. Why was CHILDLINE India a valuable and relevant field site for my purposes?

India as a state is an interesting field for NGO-state partnerships because of its characteristics of being simultaneously rights-based, neoliberal and autocratising. The organisation CHILDLINE India Foundation and their helpline service CHILDLINE<sup>135</sup> illustrate the broader phenomenon that is examined in this thesis: how the involvement of NGOs as “partners” of the state shapes the concept of human rights duties and, by extension, the concept of rights. CHILDLINE represents this phenomenon by the very fact of being a network of NGOs that implements one of India’s largest child rights programmes. The study of CHILDLINE is valuable because it explicitly identifies as a programme with a *rights*-based approach; it embodies multiple versions of whom duty bearers of child rights should be, since it is both claimed by the Ministry of Women and Child Development as a key programme for implementing the United Nations Convention on the Rights of the Child in India, and its implementation at the same time is distributed to a diverse network of small children’s NGOs across the country, i.e. a sector that is legally *not* the state; it collaborates with a number of private stakeholders; and it, ultimately, appeals to the responsible (child or adult) citizen to call out child rights violations. Furthermore, CHILDLINE represents both of the sometimes conflicting NGO roles of simultaneously being an implementer of social services and an advocate “against” the state.

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<sup>135</sup> Formally, CHILDLINE India Foundation is an organisation (registered as a Trust) while CHILDLINE is a service. The nature of CHILDLINE’s identity will be discussed in detail in Chapter 5.

CHILDLINE is thus a programme that can teach us about the complicated relationship between NGOs and the state as duty bearers of children's rights.

An important limitation with my study of CHILDLINE is that my empirical material ends in 2021. In 2022, the Ministry of Women and Child Development issued Mission Vatsalya, a new child protection scheme under which CHILDLINE will be subsumed under the government's emergency number 112, thus drastically changing the set-up of the organisation. The implications of this policy are, at the time of writing, still unknown, but NGOs across India have expressed their worry for the future of the helpline and, indeed, the future of child protection in India.<sup>136</sup>

A final point about case selection regards generalisability. While I do see CHILDLINE as illustrative of a global human rights phenomenon – the NGO-state partnership – my findings cannot simply be transferred to other NGO-state partnerships due to the ethnographic nature of the material. As I will demonstrate in Chapter 5, CHILDLINE is unique in its size and in its history. What I do claim in terms of generalisability is, first, that the neoliberal nature of state-NGO relationships for rights implementation is global and that my findings therefore can be valuable for studying the same phenomenon in other contexts. Second, while my study thickly describes one particular conceptualisation of duty bearing for rights that is not state-centered, there are many other possible conceptualisations which future ethnographic studies could bring out, and together these will contribute to developing contextual knowledge and empirically grounded theory.<sup>137</sup> While not being able to be generalised to a larger population of cases, ethnography is more than simply

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<sup>136</sup> See for instance Jagriti Chandra, "Cloud over child helpline 1098 as government mulls merging it with national emergency helpline 112," *The Hindu*, 16 April 2022, <https://www.thehindu.com/news/national/cloud-over-child-helpline-1098-as-government-mulls-merging-it-with-national-emergency-helpline-112/article65327177.ece> (accessed 11 October 2023); Ambika Pandit, "Child helpline to be integrated with 112 emergency response system," *Times of India*, 14 September 2022, <https://timesofindia.indiatimes.com/india/child-helpline-to-be-integrated-with-112-emergency-response-system/articleshow/94187843.cms> (accessed 11 October 2023).

<sup>137</sup> Bent Flyvbjerg, "Fem misforståelser om casestudiet," in *Kvalitative metoder*, ed. Svend Brinkmann and Lene Tanggaard (Copenhagen: Hans Reitzels Forlag, 2010).

describing a context, since it contributes to theoretical development.<sup>138</sup> So how did I study CHILDLINE? The next sections outline my methods in more detail.

### 2.2.2. Combining traditional, mobile, and digital ethnographic research designs

When I began this study in 2018, I designed it as a combination of a traditional place-based ethnography (immersing myself in a physical place and practice as described above) and a “mobile” ethnography (allowing to track ideas and practices in several sites<sup>139</sup>). The latter choice was because CHILDLINE is one of India’s largest child rights programmes, it is of national scale, and it would be impossible for me to be physically present in a way that could represent the entire programme. By incorporating a mobile ethnography, I could study the network and the traveling of ideas. At the same time, the immersion into some everyday practices provided the classic benefits of “being there,” such as unexpected, but crucially important situations, closer relations to informants, and catching all the informal practices around child rights implementation that would go under the radar in an interview study or a document study.

My initial plan was to conduct two in-depth place-based ethnographies: one with a district-level CHILDLINE-implementing NGO, and one with the national-level CHILDLINE India Foundation. However, when the Covid pandemic hit in 2020, I had only completed the former and tentatively begun the latter. I quickly had to leave India in March 2020, and over the next year, I gradually adapted my methods to include elements of a digital ethnography as well. Digital ethnography has been methodologically developed well before the Covid pandemic,<sup>140</sup> but the pandemic’s specific conditions called for new

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<sup>138</sup> Allaine Cerwonka and Liisa H. Malkki, *Improvising theory: process and temporality in ethnographic fieldwork* (Chicago: University of Chicago Press, 2007), 117.

<sup>139</sup> Mark Goodale, “Ethical Theory as Social Practice,” *American Anthropologist* 108, no. 1 (2006): 31.

<sup>140</sup> See for instance Bell et al., *The Routledge Companion to Digital Ethnography*; Gupta and Ferguson, *Anthropological Locations: Boundaries and Grounds of a Field Science*.

approaches in order to deal with questions such as how to adapt a planned physical ethnography to being digital, and how to strike a balance between temporary adjustments and coming to terms with a “new normal.”<sup>141</sup> After the pandemic, many of the methodological studies that boomed mid-crisis<sup>142</sup> are still relevant when it comes to adapting our research practice, especially in relation to climate change and the need to travel less. At the end of this section, I will therefore briefly reflect upon my experiences with a Covid-adapted ethnography.

First, I will lay out the components that my study consisted of after the Covid adjustments. The study ended up being made up of four different components or “field sites” – all with varying levels of physical and digital ethnography – and the data emanating from these four components were analysed together.<sup>143</sup> The first three field sites represent different levels of CHILDLINE, and are framed in red in the organogram below (in parenthesis the number of each type of organisation as per 2018 is specified):

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<sup>141</sup> I have reflected on these issues related to the present study in Therese Boje Mortensen, “Digitalising the Ethnographic Field in and Post Covid-19: How (a study of) child rights activism in India moved online,” *Chakra: A Nordic Journal of South Asian Studies* 1 (Special Issue), *Articulations of a Pandemic: Researching and Navigating South Asia in the Times of Covid-19* (2020).

<sup>142</sup> For some amongst many examples, see Dan Podjed, “Renewal of Ethnography in the Time of the COVID-19 Crisis,” *Sociologija i prostor* 59, no. 1 (2021); Maruška Svašek, “Ethnography as creative improvisation: Exploring methods in (post) pandemic times,” *HAU: Journal of Ethnographic Theory* 13, no. 1 (2023).

<sup>143</sup> For a comprehensive list of analysed data (ethnographic observations, interviews, documents, and media), see Appendix 1. Each chapter also includes some further methodological considerations specific to that chapter.

CHILDLINE organogram

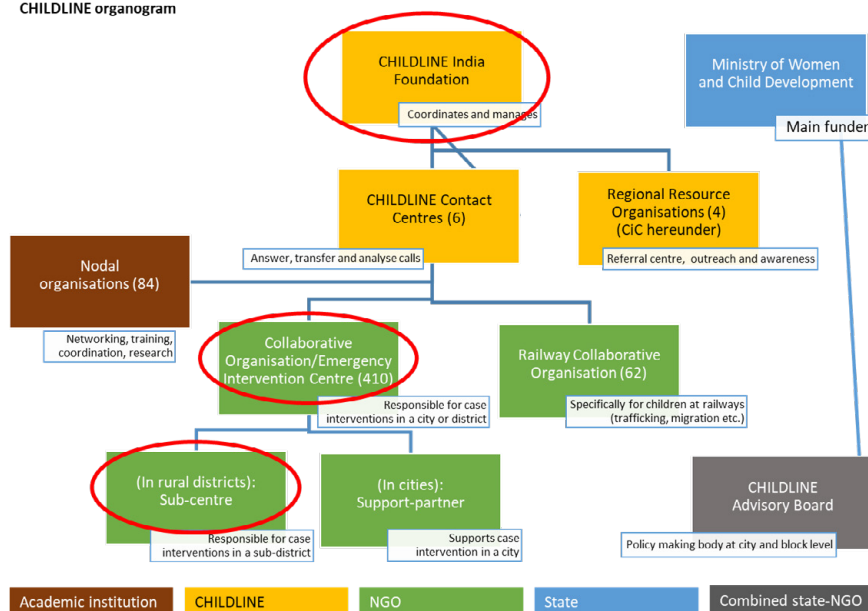


Figure 1: Simplified CHILDLINE organogram (by the author).<sup>144</sup>

The point with the above illustration is to show the different “levels” of the CHILDLINE helpline service. The partnership idea behind CHILDLINE aims for a partnership at all levels. For instance, while the national-level CHILDLINE India Foundation partners with the Ministry of Women and Child Development, the “Collaborative Organisation” at the district level partners with the local Child Welfare Committee. As we will see throughout the study, there are dilemmas for NGOs when “partnering” with the state at all levels – whether in how much critique a national-level NGO can utter towards the Ministry it partners with, or to what extent NGO workers can carry the label of a state employee in their outreach work with families. The

<sup>144</sup> This is drawn by the author, and is not an official organogram. In publications about the Integrated Child Protection Scheme (ICPS), a full organogram of the scheme can be found (Government of India, The Integrated Child Protection Scheme (ICPS) - A Centrally Sponsored Scheme of Government - Civil Society Partnership (New Delhi 2014)), but I only included the parts that were relevant for CHILDLINE and my study. See Chapter 4 for a graphic overview of the ICPS.

further down we climb the ladder of implementation, the closer the relationship between NGOs and their constituencies, namely children and families, will be. This is significant for partnerships with the state, because NGOs at the “ground” level (marked in green in Image 1 above) are intermediaries between children and the state, as we will see in later parts of the study. I was therefore interested in studying the so-called “state-NGO partnership” at different levels.<sup>145</sup>

My first field site can be found at the top of the organogram, namely CHILDLINE India Foundation (CIF), the “umbrella” or managing NGO of the child helpline. The purpose of this fieldwork component was to understand CIF as an organisation at a network and managing level, its history, values, its own way of formulating its rights-based approach, and how it presents and practices duty bearing of children’s rights. I did this through interviews with key actors (the founder, former senior employees, and current senior staff), a study of documents (reports, promotional material such as videos, and awareness campaigns in both Hindi and English), and exposure visits to various offices and partners. I gained access to these spaces when I first went to India for fieldwork in 2019, contacted CHILDLINE India Foundation’s general e-mail and set up a meeting with the Executive Director. We agreed that my research would centre on CHILDLINE and that I would return the following year for a longer ethnographic study. The following year, I began the planned ethnographic study, but had only visited CIF’s offices twice and conducted a single interview when the Covid-19 pandemic broke out and I had to leave India. Luckily, I already had some contacts, including through my academic guide at the Tata Institute of Social Sciences in Mumbai who worked in the same child protection networks as many senior CHILDLINE employees. As a replacement of the planned, traditional ethnographic study of CHILDLINE India Foundation, I therefore set up online interviews through a snowball effect of asking each interviewee whom they thought it would be relevant for me to talk to. This process continued until I had a comprehensive overview and input from key actors in the organisation. It was the same network of child protection

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<sup>145</sup> The organisation is further introduced and analysed in detail in Chapter 5.



professionals that led me to webinars arranged by both state and NGO actors that I observed online.

My second field site was a district level, CHILDLINE-implementing NGO in Madhya Pradesh that I call Suraj,<sup>146</sup> one of the hundreds of “Collaborative Organisations” at the district level. The purpose of including this component was to understand CHILDLINE’s intervention process in detail, and how duty bearing for children’s rights functions and is talked about at the level where the CHILDLINE service is in direct contact with its beneficiaries. My relationship to Suraj was established when I for the purposes of this study sought out a CHILDLINE-implementing, district-level NGO in a Hindi-speaking area, and got referred to Suraj through a friend of a former university colleague from India. I stayed with Suraj from February to April in 2019, where I worked voluntarily six days a week while observing their work and interviewing their employees. I visited them again for a few days in 2020.



Figure 2: Suraj’s office, my main field site in Madhya Pradesh (photo by the author).

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<sup>146</sup> This is a pseudonym. I will introduce both Suraj and the other small NGO in more detail in Chapter 6.

My third field site was a sub-district level, CHILDLINE-implementing NGO in Tamil Nadu that I call Community Centred Action, and their Danish donor NGO, that I call Child Support.<sup>147</sup> In the organogram, Community Centred Action is one of the so-called “sub-centres” in rural areas. The purpose of this component was to adopt a comparative perspective to the district-level NGO, specifically to compare how factors such as different values, geography within India, and having a foreign donor influenced the on-the-ground implementation of the CHILDLINE programme and led to different conceptualisations of duty bearing for child rights. I conducted this component by following a grassroots NGO who simultaneously implemented CHILDLINE and a foreign-funded child rights programme in Tamil Nadu. My primary data consisted of reports and other communication through its Danish partner organisation; as well participant observation and interviews during a stay at the organisation in Tamil Nadu. I knew Community Centred Action prior to beginning this research. Since 2017, I have been working for their Danish partner NGO as a project management volunteer. In this capacity, I visited Community Centred Action for two ten-day monitoring visits in 2017 and 2019. Outside of these visits, I stayed in touch with them professionally through project reports and online monitoring visits during the Covid-19 pandemic. In 2019, Community Centred Action, their donor Child Support and I made an agreement to let me use their organisations and partnership as a case study and, as a result, I conducted a more systematic distance ethnography – taking fieldnotes at all online meetings and from project reports – from 2020 to 2022. A key difference between my study of the two small Indian NGOs is that I speak the language of Suraj (Hindi), but not the language of Community Centred Action (Tamil), where my conversations and interviews were in English or took place through a translator. This means that I focus more on Hindi concepts in my analysis of Suraj, and more on how “NGO language” travels between donor and recipient NGO in my analysis of Community Centred Action and Child Support.

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<sup>147</sup> Both are pseudonyms.



Figure 3: Community Centred Action's office, my main field site in Tamil Nadu (photo by the author).

The final “field site” consisted of the study of international law, national laws, schemes and networks related to NGO-state partnerships for child rights in India. The purpose of this component was to get an overview of how child rights and child protection are talked about, governed, and practiced in the broader social work profession in India that CHILDLINE is part of, and to relate this to child rights in international law. I did this through a desk-based document analysis of the UN Committee on the Rights of the Child's outputs, and of Indian state-authored schemes, laws, and reports, and through digital ethnographic components, such as taking part in civil society webinars on child rights and child protection in India, and by following CHILDLINE's social media presence.

Here at the end of this section, I will briefly return to the learnings from having to include elements from digital ethnography into a traditional ethnography. Almost all my field sites included some physical, and some

digital components. Because our social reality in the 21<sup>st</sup> century is a hybrid one, a hybrid digital-physical ethnography would be ideal for most ethnographies, if we could decide which components should be digital and which physical – in other words, if we could “track” everyday lives in whatever form we meet. However, when the pandemic was at its height, it did not allow for a hybrid ethnography, but imposed pure online methods onto a hybrid reality, which was a challenge. Some elements, such as one-on-one interviews, worked very well online, almost comparable to a physical interview (except for the informal hang-around time before or after a physical interview, which often brings important knowledge). But online ethnography also had critical limitations. When the pandemic hit, CHILDLINE’s practice did of course also “go online,” but I was only partially present to document this transformation. I was no longer able to be close to informants, have informal conversations, and let them take me to all the unexpected situations that a physical ethnography, in the end, is made up of: sitting in cars, waiting for the phone to ring, going to someone’s house after work, spontaneous field trips and so on. All these situations were central in my physical ethnography, and it will be evident throughout the thesis that the thickest descriptions come from the physical, and not the digital, ethnography.<sup>148</sup> Having now outlined my field sites, I turn to what I made of all the data that emerged from them.

### 2.2.3. Getting to the concepts: Coding, analysing, and interpreting

Since ethnography is about capturing everyday situations, the data collected is potentially endless. The delineations of what constitutes my concrete data – organisational documents, laws and policies, field notes from observations, transcriptions of interviews and public awareness videos<sup>149</sup> – are thus drawn by what I could get access to and collect during the field studies, rather than a predefined search for a specific “amount.” To make sense of this varied data set,

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<sup>148</sup> For further reflections on this, see Mortensen, “Digitalising the Ethnographic Field in and Post Covid-19: How (a study of) child rights activism in India moved online.”

<sup>149</sup> See Appendix 1 for a full list of analysed data.

I collected it all in the same Nvivo<sup>150</sup> file and coded it thematically and descriptively to detect common patterns.<sup>151</sup> I began with a more explorative and inductive coding where I would note instances in a document or field note that I found intriguing, such as “Explicit linking of rights and responsibility” or “Mumbai as a node for elite social work.” Then I sorted out these initial codes to determine which were relevant to my research questions and prevalent in the data and categorised the chosen codes in thematic hierarchies.<sup>152</sup> For instance, an overall theme became “Vernacularisation of rights and duties,” and hereunder I had examples of “expressions of duty,” and further down, specific words such as “*kartavya*” or “use of the English ‘duty bearer.’” Then I developed a codebook<sup>153</sup> and coded all the material systematically with the help of the codebook. I examined the material under each code in order to analyse its meaning for my research questions. For instance, if a code was “charity language,” I might have examples of this from both CHILDLINE India Foundation’s promotional material, from several interviews, and from field notes. Re-reading these together under the headline of “charity language” allowed me to begin to draw conclusions on important themes. For instance, the notions of “everyone’s responsibility” and “partnerships” stood out across data types, from interviews with NGO workers to UN documents, and therefore became a key entry point for analysis.

The “explorative” part of my conceptual analysis was thus present already during the coding process. Based on my coding, analytical memos, and thinking through themes, each of the empirical chapters (i.e. Chapters 3-6) of the study emerged with their own focus and argument. Finally, through the analytical exercise of writing the actual chapters and discussing these in seminars, I began taking the last step of interpretation, namely to use the

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<sup>150</sup> Nvivo is a software programme for analysing qualitative data.

<sup>151</sup> In my coding, I was inspired by Johnny Saldaña, “Qualitative Data Analysis Strategies,” in *The Oxford Handbook of Qualitative Research*, ed. Patricia Leavy (New York: Oxford University Press, 2020) and Rhona Smith and Lorna Smith, “Qualitative Methods,” in *Research Methods in Human Rights*, ed. Lee McConnell and Rhona Smith (New York: Routledge, 2018), 86.

<sup>152</sup> I was here particularly inspired by Saldaña, “Qualitative Data Analysis Strategies.”

<sup>153</sup> A codebook is the final list of codes to apply when analysing a data set.

findings from each chapter to theoretically think about the concept of the human rights duty bearer and how it played out in the specific context I had studied. Having now outlined *how* I proceeded with my data collection, analysis, and interpretation, I take a step back and turn to a different but equally important aspect of methodology: research ethics and positionality.

## 2.3. Research ethics and positionality

When I during my university degrees first began working for NGOs, it intrigued me how NGOs in many cases seemed to be doing the state's job. I had learnt in international law courses that *states* were the duty bearers of human rights, so why did so many NGOs fulfil the state's functions? Surely, I thought, this must imply a problem for "proper" rights implementation worthy of further study. Initially, I did not question these thoughts as assumptions emanating from my own upbringing in a Scandinavian context where the state is generally experienced as a generous and secure provider of welfare, and perceived to be trustworthy. On the contrary, it was obvious to me that the state was *the* agent that – of course, in an ideal world – should fulfil social needs and human rights. But over the course of conducting this doctoral research, I realised that child rights NGOs in India were not simply a "band-aid" state. The duty bearer role was not taken over by NGOs, and neither was it simply the state's, but a vaguely defined "partnership." Furthermore, NGO workers experienced a state that was both their partner and their antagonist. I was therefore constantly faced with the dilemma of whether to actively try to root up my perception and expectation of the state as a central and trustworthy actor. It was not that my interviewees from Indian NGOs disagreed with me in my hope for the ideal state, but they clearly held more scepticism towards the state's ability to fulfil human rights than I did. To grapple with this, I made an effort to reflect on how the state and NGOs in India are overlapping in ways that are contrary to my intuition. This overlap ended up becoming central in my analysis. Furthermore, whereas I first used the idea of the state as a "human rights duty bearer" as a theoretical ideal to strive for, it ended up being a concept whose origins and functions I questioned.

These reflections are an example of the importance of positionality, that is, the “location”<sup>154</sup> I am writing from and how it affected my research findings. Positionality should not simply be seen as a disclaimer for the eventual biases that are to follow in the study,<sup>155</sup> but rather provide the reader with transparency about the priorities and questions through which I analyse. As Allaine Cerwonka succinctly notes, “one’s personhood is a (...) *condition* for knowledge claims, rather than a deterrent to understanding.”<sup>156</sup> I focus this section on three important aspects of positionality: my “location” in relation to the research topic, its geographical area, and historical conditions that gave me a certain perspectival “gaze” (2.3.1.), how I grappled with the balance between research and activism as an active participant in the NGO world (2.3.2.), and how I worked with and represent research participants (2.3.3.).

### 2.3.1. The ethnographic gaze

Ethnographers see social interactions with a certain perspectival gaze that reflects their own socialisation, the people and questions that interest them, and their own experiences. Raymond Madden calls this “the ethnographic gaze.”<sup>157</sup> My “gaze” upon the situations I studied was, firstly, an academic gaze. I had “another income, another point of view, a different source of social status”<sup>158</sup> than the informants. Academic participant observers subsume others’ everyday lives into an academic conceptual world.<sup>159</sup> This means that

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<sup>154</sup> Linda Alcoff, “The Problem of Speaking for Others,” *Cultural Critique* 20 (1991): 16-17.

Cerwonka similarly refers to a “vantage point” that means both the scholar’s sociohistorical location, but also “the set of priorities, questions, or even hypotheses that one inevitably brings to bear in trying to understand an object or phenomenon” (Cerwonka and Malkki, *Improvising theory: process and temporality in ethnographic fieldwork*, 26).

<sup>155</sup> Alcoff, “The Problem of Speaking for Others,” 25.

<sup>156</sup> Cerwonka and Malkki, *Improvising theory: process and temporality in ethnographic fieldwork*, 28. (emphasis in original).

<sup>157</sup> Madden, *Being Ethnographic: A Guide to the Theory and Practice of Ethnography*, 98-100.

<sup>158</sup> David Westbrook, *Navigators of the Contemporary: Why Ethnography Matters* (Chicago: University of Chicago Press, 2009), 48.

<sup>159</sup> Martin Fuchs, “Reaching out; or, Nobody exists in one context only: Society as translation,” *Translation Studies* 2, 1 (2009): 22.

I noticed topics and practices that would have relevance for a specific academic audience, as the example with the role of the state above, and likely overlooked aspects of the participants' lives that were not immediately relevant to human rights studies.

Second, mine was a foreign gaze. The people I interacted with in India were rooted in a country that until recently has been exploited – also through research – by European colonialism. Traveling from Europe to India to “work with NGOs” or to “do anthropology” therefore carries with it expectations and connotations that tap uncomfortably into the colonial past. As Asad has argued, colonialism made a kind of human intimacy possible through anthropological fieldwork that was “one-sided and provisional.”<sup>160</sup> Not only anthropology, also the structure of international law, which represents the hegemonic human rights language I analyse in Chapter 3, was imposed by colonising states on their colonies.<sup>161</sup> The nature of the Indian NGO world today is affected by these colonial histories, a dynamic that specifically provided me access to one of the NGOs, which continues to be funded by Danish foreign aid (a dynamic I elaborate on in Chapter 6). If I had grown up in or had a diasporic relationship to India, I would surely have a different epistemic and ethical relationship to the place. I am not suggesting that such authenticity should be valorised uncritically – that any person by definition is “authentic” enough to write anything about their own country and nothing about other countries. While countries define groups of people, so do classes, genders, castes, age groups, ideologies, professions, religions, and so on. Insisting that theorising can only be done “from the inside” presupposes existing and easily definable social groups that one does or does not belong to – and at the extreme end of this view, we would “attempt to avoid the problematic of speaking for others by retreating into an individualist realm”<sup>162</sup>

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<sup>160</sup> Asad, cited in Katherine Lemons, “The Ethics and Politics of NGO-Dependent Anthropology,” in *Cultures of Doing Good. Anthropologists and NGOs*, ed. Amanda Lashaw, Christian Vannier, and Steven Sampson (Tuscaloosa: University of Alabama Press, 2017), 207.

<sup>161</sup> Anthony Anghie, *Imperialism, Sovereignty and the Making of International Law* (Cambridge: Cambridge University Press, 2005).

<sup>162</sup> Alcoff, “The Problem of Speaking for Others,” 21.



and only autobiographies would be valid theory.<sup>163</sup> However, as researchers, we can take certain mitigating steps to minimise harm. The first is to inform ourselves. I spent many years prior to the research making myself familiar with India through a BA degree in South Asian Studies, including three years of intensive Hindi learning, and by spending time in India as a tourist, language learner, NGO volunteer, exchange student, and researcher. Second, we need to take a step back when it comes to theorising about experiences we can never have, such as, for instance in my case, growing up in a caste society. My authority on any experience of caste is never comparable to that of a scholar who has had those experiences. This does not mean that caste oppression is excluded in this study – which would be to silence its existence and importance – but rather that I focus my analysis on the re-telling of stories of discrimination as expressed by those who have experienced it.

Finally, my gaze was also a professional one, as I had worked for child rights NGOs for a number of years before commencing my doctoral research. These experiences have given me an insider position when it comes to both small and large, national and international NGOs in terms of the sector's internal structures and procedures, and its specialised terminology. They have also made me familiar with the specific Indian jargon of NGO work, public administration and legal language. Such credentials made me able to offer to work voluntarily for the studied NGOs, and my legitimacy with the NGOs in fact rested more upon my professional experience and my shared values with the organisations, than with any academic credentials. This leads me to the next issue of positionality: my role as an active participant in the NGO world.

### 2.3.2. Positionality towards the world of NGOs

Ethnographers usually try to mimic the practice of the people they are studying, and in the case of NGOs we are studying people who try to effect

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<sup>163</sup> Alcoff, "The Problem of Speaking for Others;" Sundar Sarukkai, "Dalit Experience and Theory," *Economic and Political Weekly* 42, no. 40 (2007): 4045.

change.<sup>164</sup> Steven Sampson captures this experience of doing NGO ethnography well:

We do not enter this scene simply as field researchers from academia, trying to describe ways of life and identify social structures and cultural meanings. We are urged to participate as activists, assistants, networkers, and even friendly critics. In terms of ethnographic fieldwork, NGO anthropology has become messier, with the boundaries of inside/outside, us/them, engagement/detachment increasingly unclear.<sup>165</sup>

When studying people and organisations who “do good,” there is – understandably – an expectation from these people that the research will also somehow further the cause they work with; and that it would be morally inconsiderate to solely use the findings for academic purposes. In the field of human rights, the views on whether researchers have ethical obligations to promote human rights, are many. Some argue that researchers certainly “have an ethical obligation to seek ways to improve” the conditions of people suffering from human rights violations.<sup>166</sup> Others perceive an unconditional support of human rights as “misguided moralism.”<sup>167</sup> Others again take a middle ground by distinguishing between advocacy as a moral and a professional activity of the researcher.<sup>168</sup> In sum, getting access to a community of practice – especially when this practice is “doing good” – justifiably creates a feeling of responsibility that the researcher needs to address.

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<sup>164</sup> Bornstein, “Introduction to Part III: How to Study NGOs Ethically,” 188.

<sup>165</sup> Sampson, “Introduction: Engagements and Entanglements in the Anthropology of NGOs.”

<sup>166</sup> Laura R. Graham, “Anthropologists are Obligated to Promote Human Rights and Social Justice especially among Vulnerable Communities,” in *Human Rights: An Anthropological Reader*, ed. Mark Goodale (Chichester: Blackwell Publishing Ltd, 2009), 200. See also Speed Shannon, “At the Crossroads of Human Rights and Anthropology: Toward a Critically Engaged Activist Research,” *American Anthropologist* 108, no. 1 (2006).

<sup>167</sup> Cowan, “An Obligation to ‘Support Human Rights’ Unconditionally is Misguided Moralism.”

<sup>168</sup> Carolyn Fluehr-Lobban, “Advocacy is a Moral Choice of ‘Doing Some Good’ but not a Professional Ethical Responsibility,” *ibid.*, 202.

The product of this study is not activist research, as I do not use it to advocate how to solve a social problem. However, throughout the research process, I took active part of the work of the NGOs that I studied, both in order to give back for letting me study their organisations, but also out of my own moral conviction. While this study, to some extent, is critical towards the structures that leave NGOs as rights implementers, I do have loyalties with the studied NGOs. The vast majority of people I worked with – who recognised the system’s flaws as much as I did – did not try to analyse structures from the outside, but rather to effect change by working from within these. Their work will have much more direct societal impact than my project, which is rather a descriptive, analytical, and theoretical one. The final product of my study will be of interest to some informants, but far from all of them, especially not those who do not read English. So, although I will share research findings with those who expressed a wish for it, my main “trade” with the informants consisted of working voluntarily for the NGOs, performing tasks that were defined by them.

In the case of Suraj, the NGO in Madhya Pradesh, my work tasks included, *inter alia*, to prepare and analyse a household survey of waste picking communities, research companies in the area we could approach for financial support, look after the office when everyone else were out on case visits, write the Monthly Progress Report (a translating job from their physical registers in Hindi to the computer in English), write project applications to donors, write case stories in English, train staff in child rights, make pamphlets, and formulate the organisation’s mission and vision.

There were many ethical considerations in negotiating which tasks I should do for Suraj. For instance, when discussing this with the Director, Jagadish, at the beginning of my stay, he mentioned that a task could be to “get more volunteers” because, as he said, “international volunteer means big organisation.” That made me uneasy because I did not want to be part of turning their organisation into a voluntourism project. Although I had found the NGO through friends-of-friends and not through a foreign volunteer market, Jagadish was aware that such a market exists, and saw my contact as a potential opening for more foreign volunteers in the future. We therefore had to have a careful discussion about what I could promise and not promise, and ended up agreeing that I would recommend the NGO as a field

placement for other (foreign and Indian) students from the Tata Institute of Social Sciences with which I was affiliated.

Another example was the expectation I often met – from people not working for the NGO – that I, by virtue of being a foreigner with an NGO, would be doing something for the vulnerable communities that Suraj worked with. Jagadish and I therefore negotiated my role as being limited to studying the professional lives and routines of NGO workers, since we agreed that it would create unfulfillable expectations and disrupt their social work if I came along on case visits and interacted with beneficiaries. My presence was thus primarily at the NGO's office, and at events where the staff judged my presence to either benefit them or do no harm, such as at school awareness events. On more than a few occasions, the staff used my presence to raise awareness about CHILDLINE – to drivers, doctors, shop keepers, journalists and whoever else I came in contact with. The staff always had a speech ready: “she is a trainee at CHILDLINE, 1098, it's a children's 24-hour helpline. Whenever you see a child in trouble, call 1098!”

For Community Centred Action, the NGO in Tamil Nadu, I had a different voluntary job by representing their Danish partner organisation. When I asked to observe and interview the staff, it was thus part of an ongoing exchange of two NGOs in a long partnership. Furthermore, Community Centred Action had decade-long contacts with several Danish NGOs and I was therefore part of a longer tradition of foreigners coming for work, cultural exchange or research. My role as a representative of their Danish donor meant that I had defined tasks that were independent from my research. My concrete tasks were to give training sessions on project management and monitor a child rights project. Here, I did not become part of the daily routine, but instead part of the interruption that visits from the foreign partner NGO caused, thus creating temporary routines. My observations of this NGO are thus not mainly focused on the daily implementation of CHILDLINE (as in Suraj), but instead on the collaboration between the foreign and the Indian NGO and how that affected both the CHILDLINE programme in particular and the NGO in general.

At the “umbrella” NGO, CHILDLINE India Foundation (CIF), I negotiated my voluntary work with people closer to my academic field, and some had

themselves done their doctoral research at the Indian university that I was affiliated with. We therefore discussed research-based outputs which I could bring in return for studying their organisation. But due to the Covid-19 pandemic, I was not able to work for CIF for a longer period of time as originally planned. Therefore, I ended up doing only smaller tasks for them, such as review and evaluate their analysis of calls. CIF was also interested in the final results of my study, which will be shared with those interested. There was thus in all NGOs a balancing exercise between “blending in” (doing what they do, which was social work), “giving back” by helping the them with their work and visibility, and not doing harm by not feeding into a structure of voluntourism and unfulfilled expectations.

### 2.3.3. The role of research participants

Although I do not define this study directly as activist research, it was a key concern of mine to let the informants’ views shape the research findings. However, it is also important to acknowledge that, as social scientists, we always to some extent speak for or on behalf of others. Our first impetus may be to try to avoid this, but there is no clear distinction between “speaking about” and “speaking for.”<sup>169</sup> What I do try to avoid, however, is to turn participant observation and fieldwork into a claim about the “lived experience” of the people studied. The representations that come out in this study should therefore be taken for what they are: the products of interpretations, mediated through my thoughts and words.<sup>170</sup>

Paramount in this was that participants understood the purpose of the research and consented to their utterances and actions being used as research material. I approached the issue of informed consent in different ways.<sup>171</sup> First of all, the Directors of all organisations that I studied ethnographically (Suraj, Community Centred Action, and Child Support) signed a written consent form on behalf of their NGO. In addition, my research purposes were

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<sup>169</sup> Alcoff, “The Problem of Speaking for Others,” 9.

<sup>170</sup> Ibid.

<sup>171</sup> The project was, prior to the fieldwork (2018), approved under an ethics review by the Swedish Ethical Review Authority.

communicated orally to the employees, both in a group setting at the beginning of my research, and orally throughout my stay and during interviews.<sup>172</sup> This was also the plan with CHILDLINE India Foundation, but since this ethnographic study was cancelled due to the Covid-19 pandemic, I ended up only studying public documents and interviewing senior staff and a number of former employees who gave separate individual written consent. Interviewees could decide whether to remain anonymous or not. All organisations except CHILDLINE India Foundation are anonymous.<sup>173</sup> For the webinars, where I was a participant observer, I obtained written consent by the convening organisation to use observations without mentioning any participants by name or organisation.

A separate ethical question I had to deal with regarding participants was to what extent I should include children. On the one hand, child participation is a cornerstone of a rights-based approach to research about children;<sup>174</sup> on the other hand, the children that CHILDLINE works with are often in vulnerable positions and should therefore be protected to the largest extent possible. Of course, it would have benefited the research to include children's perspectives and I critically considered the possibility. However, I chose not to do so for two reasons. First, on an ethical level, there have to be strong justifications for interviewing vulnerable children. I concluded that there was indeed a risk of doing harm, particularly through the implicit promises of help that come with a foreign researcher asking questions to vulnerable families; and the effect and expectations that these implicit promises could leave on the NGO that I came with. Furthermore, during my stay with the NGO Suraj, I signed CHILDLINE India Foundation's child protection policy, which emphasises a high level of protection of children in contact with CHILDLINE. All affiliates of the organisation, including me as a researcher,

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<sup>172</sup> For more about the importance of continuous consent in ethnographic research, see Sara Eldén, *Forskningsetik: Vägval i samhällsvetenskapliga studier* (Lund: Studentlitteratur, 2020), 110.

<sup>173</sup> CHILDLINE India Foundation is not anonymous because it is the only one of its kind in India, and it would be impossible to write meaningfully about it without identifying it.

<sup>174</sup> Nigel Patrick Thomas, "Child-led research, children's rights and childhood studies: A defence," *Childhood* 28, no. 2 (2021).

are required to live up to this policy. It included provisions about not representing children with photographs or names in a way that could reveal their identity, and about how consideration for the child's dignity should be paramount. Considering this understandably high level of protection of children within CHILDLINE, I chose not to include or represent children in the research apart from as anonymous case studies. Second, in light of the overall objective of this research – to scrutinise the practice of NGO-state partnerships through human rights theory – I considered it to not be crucial to interview children. “Child rights” in this study remains a case under the umbrella of human rights rather than the central aspect of the study. This does not mean that a study of NGO-state partnerships for “women’s rights” or “land rights” would have given the same results – far from it, because as we will see, the label “child rights” turned out to be key in order for NGOs to legitimise themselves as non-threatening organisations in the view of an increasingly restrictive state. Rather, what I am pointing to is that, if childhood itself had been the central topic of the research, there would have been a stronger case for involving children as informants.<sup>175</sup>

This chapter has presented my methodological approach, which – as described above – consists of an ethnographic conceptual analysis. In the next chapter, I will present and critically discuss what I have referred to as the “hegemonic human rights language” – the language of international law and political theory that has come to monopolise how human rights duties are theorised. In order to, in subsequent chapters, be able to decentralise this language, it needs to be introduced in detail and that is what the next chapter will do.

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<sup>175</sup> There are many branches of children’s rights studies that merit the inclusion of children’s perspectives – for instance to understand “rights as they are experienced by children” (Géraldine André, “Anthropologists, ethnographers and children’s rights: Critiques, resistance and powers,” in *Routledge International Handbook of Children’s Rights Studies*, ed. Wouter Vandenhoele et al. (London: Routledge, 2015), 113), but that was not my aim in this study.

### 3. State centrality in the hegemonic human rights language

International legal documents speak a language in which an abstract “ratifier state” is *the* duty bearer of human rights. There are many legitimate reasons for the existence of such a legal language, but still, I argue, its underpinnings and effects require critical unpacking: what does “duty bearing” mean in international law and political theory, which have come to make up and dominate as the hegemonic human rights language? Where does that leave NGOs? Where and how is this language (re)produced? How does it create an ideal type of the state that affects human rights practice? These are the questions I examine in this chapter.

This chapter attends to the study’s theoretical objective of critically analysing the notion of the “human rights duty bearer” from different angles, i.e. from hegemonic to vernacular rights languages. In this chapter, I aim to unpack what I call a *hegemonic human rights language*. It is important to underline that although I examine political theory in this chapter, the hegemonic human rights language is not a set theory that I present and later apply, but should be conceived of as part of my analytical ambition to account for hegemonic as well as vernacular duty bearing conceptions.

First of all, why is it important to analyse the hegemonic human rights language? Why is it, in particular, significant for analysing NGO-state partnerships? It is important, I argue, exactly because it is hegemonic: it has epistemic power in defining rights discourses across the globe, and small NGOs are today affected by this language. “Duty bearing” is a term that is slowly moving beyond being simply legal jargon. It has also become NGO jargon, and it is worth exploring empirically how NGOs work with this concept. Consider for instance the language in this fund application written



by Child Support, the small, Danish NGO that I studied as a donor of a small, Indian NGO:

The sensitizing of villagers is (...) strategically designed to equip them with knowledge, which enables them to identify rights violations and hold duty-bearers responsible for justice and the elimination of future rights violations. (...) In this intervention, the focus is on holding the duty bearers and stakeholders accountable by putting pressure on them to enforce the law. This will be done by organizing the rights holders and moral duty bearers at village level.<sup>176</sup>

The NGO that wrote this application is aware that in order to get funding for a “rights-based” project it is necessary to argue that the proposed project will hold “duty bearers” accountable, both directly by putting pressure on them, and indirectly by organising rights holders. In this context, “duty bearer” refers to an official actor that represents the state, or someone or something “legal,” distinguished from “moral duty bearers” which, in the above excerpt, refers to non-official, but influential, people at the village level. But not only have NGOs adopted this otherwise legalistic language of “duty bearing,” they have also themselves, by partnering with the state in implementing social welfare programmes, become part of the state’s duty bearing regime. For these two reasons – that NGOs increasingly use the language of “duty bearing,” and that NGOs themselves are playing a duty bearer role – the concept of “duty bearing” is highly relevant to examine in more detail, an examination that necessitates more empirically and specifically ethnographically informed input.

In the first section of this chapter (3.1.), I will demonstrate how duty bearing is conceptualised within the hegemonic human rights language of international law and political theory. I show how these disciplines treat human rights and duty bearing as a correlative conceptual pair, and how the state is conceptualised as the primary duty bearer of human rights. In section 3.2., I examine how the category of “NGOs” is treated in the same language,

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<sup>176</sup> Non-public fund application. The document is with the author.

namely as either providers of “moral inputs”<sup>177</sup> to drafting and monitoring processes at the UN level; or placed in the ambiguous and broad category of “non-state actors,” as marginal and formally insignificant for “actual” human rights law, which is reserved for states. With this section, I want to show how international law’s state centredness finds it difficult to account for NGOs, and how it is thereby part of creating contradictory expectations of NGOs in human rights practice. The third part of the chapter (3.3.) is dedicated to showing how the hegemonic human rights language is (re)produced. In this part, I focus on the publications of the Committee on the Rights of the Child. I argue that two ambiguous roles are discursively constructed<sup>178</sup> for NGOs by the treaty body:<sup>179</sup> as “moral input providers” to drafting and monitoring processes, which contributes to a perception of NGOs as the potentially malign state’s moral opposite; but also as “partners” in implementation, contributing to a conception of NGOs as being able to be part of the state’s human rights work, and not its opposite. We will see how the Committee on the Rights of the Child produces an apolitical and diplomatic language, strikingly detached from the world in which their recommendations are to be followed, but also how the Committee finds it difficult to deal with the reality of state-NGO partnerships while adhering to the state centrality of the human rights conventions. Finally, I argue that the duty bearer concept has potential for being examined in more detail, especially through an ethnographic and

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<sup>177</sup> This is my own term. By describing the discursive construction of NGO roles as “moral input providers” I refer to the expectations by the international human rights monitoring system that NGOs are doing “morally good” and trustworthy work; and that they therefore should be invited as contributors to international human rights monitoring in order to balance out potentially biased state reports (see Miia Halme-Tuomisaari, “Contested Representations: Exploring China’s State Report,” *Journal of Legal Anthropology* 1, no. 3 (2013)) and to “democratise” UN processes (McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, 128-29).

<sup>178</sup> With “discursively constructed,” I mean that these NGO roles are not necessarily mirrored in the “real” world, but that they come into being through the way they are written about.

<sup>179</sup> After the entering into force of a human rights treaty, a “treaty body” is established to examine country reports, monitor the implementation of the treaty, and specify and interpret its articles. The Committee on the Rights of the Child is the treaty body for the Convention on the Rights of the Child.

vernacular lens, and that an empirical study of NGOs is a suitable and productive entry point for this.

### 3.1. Duty bearing in hegemonic human rights language

The Universal Declaration of Human Rights (UDHR) and the following human rights treaties at the UN level are formulations of a specific philosophy of rights and duties, where the state is central and other actors marginal. One of the reasons for this state-centricity is that human rights law grew out of an existing tradition of international law in the wake of the Second World War, a tradition that was centered around the category of the sovereign state. Public international law consists of agreements between sovereign states, and while human rights law is a specific kind – because it is not only contracts between states, but also concerned with individuals within states<sup>180</sup> – the fact that it developed as part of an existing international legal regime meant that the sovereign state was the central legal category, and thus it became the obvious duty bearer of human rights. But while many legal documents may give the impression that this category is relatively neutral, it is in fact embedded within global inequality. Anthony Anghie has shown how the notion of sovereignty during European colonial expansion was used by colonisers to legitimise imperialism: they considered themselves and other European states as sovereign, while so-called “savages” were not so – rather, they were seen as in the need of “civilising.”<sup>181</sup> With this, Anghie argues that international law is embedded in a colonial logic, not only historically, but continuously in postcolonial states through, *inter alia*, human rights law and “good governance policies,” where the “developed” states are legitimately

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<sup>180</sup> Frédéric Megret, “Nature of Obligations,” in *International Human Rights Law*, ed. Daniel Moeckli (Oxford: Oxford University Press, 2014), 96; 103.

<sup>181</sup> Anghie, *Imperialism, Sovereignty and the Making of International Law*; Anthony Anghie, “The Evolution of International Law: Colonial and Postcolonial Realities,” *Third World Quarterly* 27, no. 5 (2006).

entitled to interfere with the “undeveloped.”<sup>182</sup> In sum, the origins of the idea that states are duty bearers of human rights is partly to be found in the origins of international law, which shows us that this idea is thus not as neutral as it may seem.

With this background, we might begin to understand why tensions and contradictions appear when the hegemonic human rights language meets post-colonial states that have always enjoyed some kind of legal plurality.<sup>183</sup> Indeed, in contrast to the hegemonic language of state centrality, in many vernacular rights conceptions the appeal to the state as the duty bearer is not always a definitional key to what rights mean<sup>184</sup> – yet, neither is the state irrelevant in these contexts, as the following chapters will also show. As I outlined in Chapters 1 and 2, my empirical focus in this study is on NGO-state partnerships, specifically the Indian helpline CHILDLINE. Through my ethnographic work on CHILDLINE, it became clear that the “duty bearer” concept – whether explicitly mentioned or implicitly referred to – was indeed a central concept in this particular rights practice. It was not simply legal jargon, but a tool for NGOs to appeal to the state and other “stakeholders,” and conceptualise their own role in a rights claim. At the same time, “duty bearing” to my informants did not only mean “the state,” but a wider array of actors. Therefore, a deeper understanding of what duty bearing means in the vernacular is necessary.

If we first return to the hegemonic human rights language, this is a philosophy in which rights are separated from other moral discourses by virtue of the existence of a stable, institutional duty bearer. It is also a philosophy where

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<sup>182</sup> Anghie, “The Evolution of International Law: Colonial and Postcolonial Realities.” For this argument, see also Gilbert Rist, *The History of Development: from western origins to global faith*, trans. Patrick Camiller (London; New York: Zed books, 1997).

<sup>183</sup> Shalini Randeria, “The State of Globalization: Legal Plurality, Overlapping Sovereignities and Ambiguous Alliances between Civil Society and the Cunning State in India,” *Theory, Culture & Society* 24, no. 1 (2007): 14. However, this is not to say that state centrality in the hegemonic human rights language fits one-to-one with non-colonised states, so this point is larger than only applicable to post-colonial states.

<sup>184</sup> See for instance Chapter 5 on a “cosmological justification” of the concept *haq* in Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*.

rights have a primary moral status and come “before” duty. In other words, duties are a definitional part of the human rights concept, but they are seen as derivative of rights. That is the philosophy that I seek to describe in the next section. While I will bring out some critics of this philosophy, there are many other versions of the relation between rights and duties that I will not treat here. First, I focus more on the question of *who* human rights duty bearers are argued to be rather than *how* we should assign human rights duties.<sup>185</sup> Second, I have left out the debate on whether the moral language of duty may be a better alternative for a global ethics or universal norm than the language of rights, an argument many philosophers and other scholars have made.<sup>186</sup> That debate is beyond the scope of this study, which does not investigate the duty concept as an *alternative* to the rights discourse, but rather as a key *part* of it. My point is that regardless of whether an ethics based on duty is better than one based on rights, it is the latter that has dominated hegemonic human rights language over the last decades. And this human rights language has certain characteristics: right and duty are treated as a correlative conceptual pair; and the state is conceptualised as the primary duty bearer of rights.

### 3.1.1. Right and duty as a correlative conceptual pair

Dominant human rights philosophy and legal theory<sup>187</sup> treat rights as “correlative” to duties. While there have been many other ideas about the

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<sup>185</sup> For that discussion, see Thomas Winfried Menko Pogge, *World poverty and human rights: cosmopolitan responsibilities and reforms*, 2nd ed. (Cambridge: Polity, 2008).

<sup>186</sup> See for instance Purushottam Bilimoria, “Rights and Duties: The (Modern) Indian Dilemma,” in *Ethical and Political Dilemmas in Modern India*, ed. Ninian Smart and Shivesh Thakur (New York: St. Martin's Press, 1993); Shashi Motilal, “Human Moral Obligations, Dharma, and Human Rights,” in *Human Rights. India and the West*, ed. Ashwani Peetush and Jay Drydyk (Oxford: Oxford University Press, 2015); Samuel Moyn, “Rights vs. Duties: Reclaiming Civic Balance,” *Boston Review* 41, no. 3 (2016); Onora O'Neill, “Children's Rights and Children's Lives,” *Ethics*, April (1988).

<sup>187</sup> These are the two main disciplines that have shaped the hegemonic duty bearer concept, and they have of course affected each other. Human rights law is shaped by prevalent philosophic thought, and philosophic thought on human rights is in turn shaped by the way international law is constructed at a given time.

nature of this correlation,<sup>188</sup> I will focus on the views that have had the most influence on how human rights are framed in the hegemonic human rights language. Again, my purpose is to account for the philosophy that undergirds ideas of state centrality in international law in order to demonstrate what the core elements of the hegemonic human rights language are.

Importantly, the idea that rights are correlative to duties begins with the right as the primary moral category. As an example of this, Herbert Hart has written that the strength of a rights language is attributed to the fact that they are possessed, owned, or belong to individuals.<sup>189</sup> Similarly, Ronald Dworkin has conceptualised certain moral rights as “trumps,” meaning that individuals possess rights irrespective of anything else.<sup>190</sup> Jack Donnelly has in the same vein argued that rights cannot be reduced to others’ obligations.<sup>191</sup> Human rights as an ethical language is thus a distinct from other moral languages, for instance those of human dignity or distributive justice.<sup>192</sup> As Purushottam Bilimoria has phrased it, “in contemporary moral discourse it becomes extremely difficult to speak of duties without giving priority to rights.”<sup>193</sup>

Still, even if human rights are considered to “come first,” a rights claim in most analytical philosophy does depend on *some* actor fulfilling corresponding duties. It is thus common to define the relation between rights and duties in terms similar to these:

A right gives a person (a right-holder) a claim to the respect of a duty by another person (the duty-bearer) whose duty is directed to the right-holder.

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<sup>188</sup> For instance, Gandhi and others have argued that the enjoyment of any human right depends on the discharge of one’s own duties, thus making all individuals both duty bearers and rights holders (see Bilimoria, “Rights and Duties: The (Modern) Indian Dilemma”).

<sup>189</sup> Herbert Lionel Adolphus Hart, “Are There Any Natural Rights?” *The Philosophical Review* 64, no. 2 (1955): 182.

<sup>190</sup> Ronald Dworkin, *Taking rights seriously* (Massachusetts: Harvard University Press, 1977).

<sup>191</sup> Jack Donnelly, “How are rights and duties correlative?” *The Journal of Value Inquiry* 16, no. 4 (1982): 290.

<sup>192</sup> Jack Donnelly, “Human Rights and Human Dignity: An Analytical Critique of NonWestern Conceptions of Human Rights,” *American Political Science Review* 76 (1982).

<sup>193</sup> Bilimoria, “Rights and Duties: The (Modern) Indian Dilemma,” 36.

As such, a right is a normative relation between a rightholder and a duty-bearer, pertaining to a protected object.<sup>194</sup>

A rights claim is, in this way, typically defined as consisting of a claimant, a good or value, and a duty bearer.<sup>195</sup> Some have distinguished between different kinds of rights, which generate different types of duties, such as Wesley Hohfeld's division of rights into claims, liberties, powers, and immunities.<sup>196</sup> Whether or not a duty bearer needs to be specified is a larger discussion in analytical philosophy.<sup>197</sup> Some argue that specifying the duty bearer will strengthen the right,<sup>198</sup> but also that the specification should be open: new circumstances can give rise to new types of duties.<sup>199</sup> In sum, this human rights philosophy takes its point of departure in the notion of right before duty, but still emphasises that a human right, especially a human rights claim, requires the specification of a duty bearer.

The right-duty correlative dichotomy in analytical philosophy has been critiqued for being too strict: it implies that without a specified duty bearer capable of providing a certain good or value, there is no right. Such critique can be further strengthened if we consider conceptions of duty bearing beyond the hegemonic, i.e. if we allow vernacular conceptions to inform our theorising. This is what Madhok has done in *Vernacular Rights Cultures*,<sup>200</sup>

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<sup>194</sup> Samantha Besson, "The Bearers of Human Rights Duties and Responsibilities for Human Rights: A quiet (r)evolution?" *Social Philosophy and Policy* 32, no. 1 (2015): 249.

<sup>195</sup> Motilal, "Human Moral Obligations, Dharma, and Human Rights," 132-33.

<sup>196</sup> For a good explanation of these four rights types, see Arvind Sharma, *Hinduism and Human Rights: A Conceptual Approach* (Oxford: Oxford University Press, 2004), 138-39.

<sup>197</sup> See for instance Susan James, "Realizing Rights as Enforceable Claims," in *Global Responsibilities: Who Must Deliver on Human Rights?* ed. Andrew Kuper (New York: Routledge, 2005), 80; Onora O'Neill, *Towards Justice and Virtue. A Constructive Account of Practical Reasoning* (Cambridge: Cambridge University Press, 1996).

<sup>198</sup> Besson, "The Bearers of Human Rights Duties and Responsibilities for Human Rights: A quiet (r)evolution?" 250.

<sup>199</sup> S. Matthew Liao, "The Right of Children to be Loved," *The Journal of Political Philosophy* 14, no. 4 (2006): 428.

<sup>200</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*.

and it is an argument I both seek to strengthen and nuance: since the hegemonic human rights language affects rights practice, there is rarely a “pure” vernacular that can challenge it. In subsequent chapters, I will show how NGOs have increasingly adopted this right-duty dichotomy in their day-to-day language. A rights-based approach for NGOs means to identify a duty bearer of a right and to appeal to that duty bearer as the main addressee in campaigns. The existence of a duty bearer thus is central to NGOs’ rights advocacy and rights language – but still, their definition of duty bearers is much more expansive than the hegemonic version. I will therefore show how the semi-governmental and hybrid space of NGO-state partnerships is affected by both hegemonic and vernacular rights languages. The next characteristic of duty bearing in hegemonic human rights language that I will discuss is an extension of the right-duty correlative dichotomy, namely that the most adequate duty bearer is the state.

### 3.1.2. State centrality in human rights theory

Let us begin by considering who is *not* a convincing duty bearer according to many contemporary human rights theorists, and that is individuals. An individualist or “interactional” conception of the human rights duty bearer would claim that private persons have duties towards other private persons’ human rights. This view suggests that human rights are first and foremost moral rights.<sup>201</sup> Distancing themselves from this view, most contemporary theorists would argue that it is more effective if duty bearing is attributed to

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<sup>201</sup> Elizabeth Ashford, “The Duties Imposed by the Human Right to Basic Necessities,” in *Freedom from Poverty as a Human Right. Who owes what to the very poor?* ed. Thomas Pogge (Oxford: Oxford University Press, 2007), 185.



institutions.<sup>202</sup> This is firstly because attributing human rights duties to institutions of a democratic state ensures both coverage and sustainability of services, as well as democratic legitimacy. Second, in some philosophers' view, rights become more than simply moral rights, or as O'Neill has formulated it, a specified institutional duty bearer ensures that rights are not simply "manifesto rights."<sup>203</sup> In fact, in this view, an institutional duty bearer distinguishes human rights duties from interpersonal moral duties because it is defined by the relation between the rights holder and the institutional structure of a society. Or as Besson highlights, it is key that there is a jurisdiction under which to discharge human rights duties.<sup>204</sup> The idea is that if duties and rights are not institutional and "official"<sup>205</sup> they become optional, and vice versa; if duties and rights *are* institutional and official, rights-holders are and will feel more secure. Finally, the argument for institutional duty bearing is that human rights violations are complex to the extent that individuals can rarely conceive of the harm that their actions might be doing – state institutions simply have more information, power, and capacity to distribute duty bearing more effectively.<sup>206</sup>

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<sup>202</sup> Of course, the views of whether human rights duties should be individual or institutional represent a spectrum rather than two opposites. In the "institutional" view, the duty bearers of human rights are governments because they represent individuals (Alan Gewirth, "Duties to Fulfill the Human Rights of the Poor;" *ibid.*, 223. See also Michael Green, "Institutional Responsibility for Moral Problems," in *Global Responsibilities: Who Must Deliver on Human Rights?* ed. Andrew Kuper (New York: Routledge, 2005), 118; 26.; Ife, *Human Rights and Social Work* (Cambridge: Cambridge University Press, 2001), 96). Individuals thus discharge their human rights duties by paying taxes and voting (Liao, "The Right of Children to be Loved," 433.). Thus, it is individuals *together* (not on their own) who have human rights duties (Besson, "The Bearers of Human Rights Duties and Responsibilities for Human Rights: A quiet (r)evolution?" 252).

<sup>203</sup> O'Neill, "Children's Rights and Children's Lives," 461.

<sup>204</sup> Besson, "The Bearers of Human Rights Duties and Responsibilities for Human Rights: A quiet (r)evolution?" 253-54.

<sup>205</sup> Pogge, *World poverty and human rights: cosmopolitan responsibilities and reforms*.

<sup>206</sup> For these arguments, see Green, "Institutional Responsibility for Moral Problems;" Thomas Winfried Menko Pogge, *Freedom from Poverty as a Human Right. Who owes what to the very poor?* (Oxford: Oxford University Press, 2007); Henry Shue, *Basic Rights: Subsistence, Affluence, and U.S. Foreign Policy* (Princeton: Princeton University Press, 1980).

All of these arguments for institutional duty bearing could be convincing if we imagined an ideal state. However, once I in Chapter 4 go on to discuss how duty bearing for child rights is distributed in India, I will highlight the discrepancies between this ideal imagination and the complexities of an actual state. Not all political theorists, however, propose strict dichotomies detached from reality's complexity. Some, while still part of a hegemonic human rights discourse, do take empirical contexts into account. One of these is Charles Beitz who in *The Idea of Human Rights*<sup>207</sup> provides an account of human rights as a practical, political, and state-centred concept. Beitz argues that we should not conceive of human rights as an independent philosophical idea that we “apply” to the international realm, but instead as a political doctrine that is specifically constructed for global political life.<sup>208</sup> In this view, human rights are “in the first instance conditions for institutions rather than for individual persons taken seriatim.”<sup>209</sup> They are not universal, but rather designed for specific societies with characteristics such as a minimal legal system, an economy with some sort of wage labour, and participation in global and economic life.<sup>210</sup> Beitz’ model of human rights is divided in layers of responsibility where the state is the primary level:

The central idea of international human rights is that states are responsible for satisfying certain conditions in their treatment of their own people and that failures or prospective failures to do so may justify some form of remedial or preventive action by the world community or those acting as its agents.<sup>211</sup>

He attributes human rights duties principally to a “first level agent,” the state, and then, to the extent that they are able, on “second level agents,” which include the political institutions of the international community as well as

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<sup>207</sup> Beitz, *The Idea of Human Rights*.

<sup>208</sup> Ibid., 48-49.

<sup>209</sup> Charles R. Beitz, “The Force of Subsistence Rights,” in *Philosophical Foundations of Human Rights*, ed. Rowan Cruft, S Matthew Liao, and Massimo Renzo (Oxford: Oxford University Press, 2015), 538.

<sup>210</sup> Beitz, *The Idea of Human Rights*, 57-58.

<sup>211</sup> Ibid., 37.

other states and non-state agents “with the means to act effectively.”<sup>212</sup> Therefore, in Beitz’ view, other institutions such as the international community also bear some responsibility, but that is secondary to the state’s responsibility towards its own citizens.<sup>213</sup>

Beitz’ theory is useful because human rights are conceived of as “a social phenomenon whose meaning depends on how it is engaged by its many participants.”<sup>214</sup> While NGOs are not ignored and “non-state actors” are seen as “second-level actors” in the layers of responsibility model, they are not considered agents on the same level as states and international institutions. This is of course, as Donnelly has pointed out, attributable to the fact that NGOs do hold much less power than states.<sup>215</sup> Still, Beitz’ account could be nuanced with more attention given to the actual roles that NGOs play in human rights practice<sup>216</sup> – especially considering his emphasis on human rights as practice. As Lafont has argued, Beitz’ practical human rights conception should be able to “adopt a critical stance toward the state-centric norm.”<sup>217</sup> Exactly because Beitz’ model is “descriptively accurate of current practice,” it should be able to be changed “if the practice itself changes,” Lafont argues.<sup>218</sup> In her view, we should not grant “too much authority to the status quo by taking the existing state-centric norm as a given.”<sup>219</sup>

The point of presenting these philosophical perspectives at some length has been to show the analytical work that provides the ground for and is in conversation with international human rights law. The views I have presented

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<sup>212</sup> Ibid., 115.

<sup>213</sup> Beitz cited in Cristina Lafont, “Accountability and global governance: challenging the state-centric conception of human rights,” *Ethics & Global Politics* 3, no. 3 (2010): 198.

<sup>214</sup> Beitz, *The Idea of Human Rights*, 106.

<sup>215</sup> Jack Donnelly, *International Human Rights (Dilemmas in World Politics)* (Boulder, Colorado: Westview Press, 2013), 28.

<sup>216</sup> Lafont has also highlighted this as a shortcoming of Beitz’ theory (Lafont, “Accountability and global governance: challenging the state-centric conception of human rights”).

<sup>217</sup> Ibid., 201-02.

<sup>218</sup> Ibid., 202.

<sup>219</sup> Ibid.

are well-argued and important points. They are, however, only one version of what human rights duties are – and still they have become the hegemonic version. Now, let us move on from political theory and look at how international human rights law similarly consolidates the state as the key human rights duty bearer.

### 3.1.3. State centrality in human rights law

When it comes to the present construction of the international legal human rights regime, there is little doubt that the duty bearers of human rights are states. States ratify treaties and states are both the potential upholders and violators of international law. This centrality of the state in international human rights law is of course a legal construction. But what does this legal construction consist of?

If we look to the non-binding Universal Declaration of Human Rights (UDHR) from 1948, however, it is not particularly state-centric. Several contemporary legal scholars look to the UDHR in order to explain how human rights law should not necessarily be state-centric.<sup>220</sup> However, in the human rights treaties that followed after the UDHR – treaties that were to be ratified by states – the state was treated as the

...obvious practical focus for providing the framework for securing (...) human rights (...) particularly in terms of legislating to protect the rights, providing a recourse avenue and remedies for those who claimed their rights had been violated, imposing punishments on violators, and implementing a general framework of enforcement.<sup>221</sup>

The Conventions are very clear about the state being *the* human rights duty bearer. The duty states have is by the UN treaty bodies commonly

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<sup>220</sup> Lafont, “Accountability and global governance: challenging the state-centric conception of human rights,” 212 (note 24); Adam McBeth, “Every Organ of Society: The Responsibility of Non-State Actors for the Realization of Human Rights,” *Hamline Journal of Public Law & Policy* 30, no. 1 (2008): 35.

<sup>221</sup> McBeth, “Every Organ of Society: The Responsibility of Non-State Actors for the Realization of Human Rights,” 42.

conceptualised as a threefold duty to respect, protect, and fulfil human rights. To “respect” means “a negative obligation to not take any measures that result in a violation of a given right.”<sup>222</sup> “Protect” means to protect individuals from human rights violations by third parties. This does not mean that the state is automatically liable for private actors’ infringement on individuals’ human rights. However, it is liable if the violation is a result of shortcomings on the part of the state.<sup>223</sup> “Fulfil” means that the state should take positive steps for the enjoyment of people’s rights.<sup>224</sup> The three types of obligations overlap in practice, but Megret argues that the typology is still useful “to identify the various ways in which states can and must discharge their obligations that are specific to international human rights law.”<sup>225</sup>

The duties imposed by the UN Convention on the Rights of the Child (UNCRC) are slightly different from other UN human rights treaties, because of the vulnerability of children. In addition to the primary duty of states, the UNCRC also refers to the rights and duties of parents,<sup>226</sup> and indirectly to duties of private social welfare institutions by stating that, “[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.”<sup>227</sup> This makes the UNCRC the only binding human rights treaty that refers to duties of non-state actors.<sup>228</sup> According to Julie Fraser, the treaty is “the most progressive in terms of its acknowledgement of [non-state actors] and even creates obligations for them – predominantly parents – in addition to the state.”<sup>229</sup> There are, however, not clear interpretations of what this means in practice, but there is a general consensus in international human rights law that the

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<sup>222</sup> Megret, “Nature of Obligations,” 102.

<sup>223</sup> Ibid.

<sup>224</sup> Ibid., 103.

<sup>225</sup> Ibid., 104.

<sup>226</sup> United Nations General Assembly, “Convention on the Rights of the Child,” United Nations (United Nations Treaty Series 3, 1989), Art. 5.

<sup>227</sup> Ibid., Art. 3(1).

<sup>228</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, chapter 4.

<sup>229</sup> Ibid., 138.

state is the *primary* duty bearer, and in the case of child rights, it is the responsibility of governments to ensure that *secondary* duty bearers, such as parents and other actors, perform their duties.<sup>230</sup>

Thus far, I have accounted for two key characteristics of the hegemonic human rights language: that rights and duties are seen as correlative concepts, and that the state is seen as the main duty bearer of rights. My point with describing this language has been to show what the hegemonic human rights language looks like and where it comes from. To a certain extent, the state-centredness is simply the practical outcome of the fact that the human rights treaties were drafted within the realm of international law. Akin to my comments on analytical philosophy above, these comments on international law are not to be understood as a critique in the sense that the language of human rights law should be different. Rather, my aim is to demonstrate that this particular philosophy, epitomised in international human rights law, has been afforded hegemonic status. As we will see below, this is a language that is at odds with more vernacular conceptions of duty bearing and, at the same, a language that many NGOs lean against when they appeal to the state as a duty bearer. NGOs that work “rights-based” often look to what they perceive to be “official” definitions of rights – such as UN documents, but, in practice, their rights-based work looks very different from (only) appealing to the state as a duty bearer. Finally, while the idea that states are *the* respecters, protectors and fulfillers of human rights is formulated unambiguously in international legal documents, in reality it is a hope and a vision developed through the drafting of the UDHR and continued through the treaty work. But this vision is recurrently challenged by existing practices and conceptualisations of rights and duties – such as the practice of NGO-state partnerships and conceptualisations of “everyone’s” duties for others’ rights. The next question, therefore, is how human rights theory and law deal with the fact that NGOs are in fact an integral part of a society’s institutional structure and play a significant role in human rights protection.

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<sup>230</sup> United Nations Committee on the Rights of the Child, “General Comment No. 5 (2003): General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6),” *CRC/GC/2003/5* (2003), General Comment, para. 43.

### 3.2. NGOs in hegemonic human rights language

Having now shown how the state has been discursively constructed as the primary duty bearer of human rights in hegemonic human rights language, this section explores the ambiguous roles of NGOs in the same field. I show that NGOs in human rights theory and law are either treated as moral watchdogs in relation to the drafting and monitoring processes at the UN level (3.2.1.) or placed in the eclectic category of “non-state actors,” as marginal and formally insignificant for “actual” human rights law, which is reserved for states (3.2.2.). In 3.2.3, I look at the term “non-state actor” and argue that it is too broad a concept to be able to capture the roles of NGOs in human rights practice. Overall, I show how international law’s state centredness finds it difficult to encompass NGOs, and how it is thereby part of creating contradictory expectations of NGOs in human rights practice.<sup>231</sup>

#### 3.2.1. Moral watchdogs

NGOs have been working on the sidelines of the UN’s human rights law since the drafting of the UDHR.<sup>232</sup> Several scholars have studied the consultative and “moral watchdog role” that NGOs play in international law and diplomacy and proven the actual influence that NGOs have had behind the scenes in lobbying for human rights.<sup>233</sup> My study is not immediately concerned with this type of NGO – the international lobbyist – since I study national NGOs and not those contributing to inter-state human rights

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<sup>231</sup> The following is not a literature review of NGO roles in human rights practice in general. For that, see Chapter 1. This part specifically attends to the treatment of NGOs as a category in international legal scholarship.

<sup>232</sup> Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*. NGOs have had roles in international organisations since the League of Nations, and formally since the UN Charter (McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, 21-22.)

<sup>233</sup> Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*; Meyers, “NGO-ization and Human Rights Law: The CRPD’s Civil Society Mandate;” McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*.

monitoring processes (although these may also be national NGOs<sup>234</sup>). However, the fact that NGOs are recognised as playing this international watchdog role is significant for the way in which “NGOs” as a category in human rights law and practice is discursively constructed: as moral watchdogs monitoring the state.

Already in the UN Charter – to which the coining of the term “NGO” is often attributed – NGOs were given a small consultative role establishing their legal basis in the UN system and, since then, they have become “key actors” in the UN human rights system.<sup>235</sup> NGOs have often been credited with being the real force behind the breakthrough of human rights.<sup>236</sup> They provide input to drafting processes and write “shadow reports” to supplement the state’s potentially untrustworthy reports.<sup>237</sup> This is a role that is institutionalised and legitimised within the international human rights system. As Korey writes, the Human Rights Committee “is almost totally dependent upon NGO briefings, documentation and advice.”<sup>238</sup> The Office of the High Commissioner for Human Rights (OHCHR) has itself argued that civil society input adds “credibility” to the human rights bodies.<sup>239</sup> In other words, NGOs are considered reliable experts on the human rights situation in a country – more reliable than the state. In this role, they are expected to put pressure on their governments.<sup>240</sup> According to Korey, they were the ones who would transform the “words of the Declaration from a

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<sup>234</sup> See McGaughey, “From gatekeepers to GONGOs: A taxonomy of NonGovernmental Organisations engaging with United Nations human rights mechanisms,” 117.

<sup>235</sup> Ibid., 112, 15.; McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, 23.

<sup>236</sup> See Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*; Keck and Sikkink, *Activists beyond borders: Advocacy networks in international politics*.

<sup>237</sup> McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, Chapter 2; 4. Halme-Tuomisaari, “Contested Representations: Exploring China’s State Report.”

<sup>238</sup> Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*, 5.

<sup>239</sup> OHCHR, quoted in McGaughey, “From gatekeepers to GONGOs: A taxonomy of NonGovernmental Organisations engaging with United Nations human rights mechanisms,” 112.

<sup>240</sup> Korey, *NGOs and the Universal Declaration of Human Rights: A Curious Grapevine*, 4.



standard into reality; it was they who would assume the function of implementing the demands of international morality.”<sup>241</sup> I will return to this below, but, for now, I note that being lobbyists and behind-the-scenes drafters are key roles for NGOs in human rights practice that has been recognised in the literature for decades.

### 3.2.2. “Non-state actors”

The second image of NGOs in international human rights law is as equivalent to so-called “non-state actors.” For many decades, there was a scholarly silence on what types of human rights duties these actors hold,<sup>242</sup> and in legal human rights textbooks “non-state actors” are usually dealt with in a chapter that is clearly separated from the rest of the volume.<sup>243</sup> But as Fraser states, “NSAs [non-state actors] play a virtually unlimited number of roles regarding human rights. Despite this, they have not been formally recognised in international law and their position and status is unclear.”<sup>244</sup>

This silence has, however, over the last couple of decades slowly been broken. For instance, authors like Philip Alston,<sup>245</sup> Andrew Kuper,<sup>246</sup> Andrew Clapham,<sup>247</sup> and Fiona McGaughey<sup>248</sup> have written on the potential duties of and new roles for non-state actors. It is increasingly being recognised as a limitation to “traditional State-centric theories” that they lack an

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<sup>241</sup> Ibid., 2.

<sup>242</sup> Lafont, “Accountability and global governance: challenging the state-centric conception of human rights,” 199.

<sup>243</sup> For instance in Dinah Shelton, *The Oxford Handbook of International Human Rights Law* (Oxford: Oxford University Press, 2013).

<sup>244</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 120.

<sup>245</sup> Alston, *Non-State Actors and Human Rights*.

<sup>246</sup> Andrew Kuper, ed., *Global Responsibilities: Who Must Deliver on Human Rights?* (New York: Routledge, 2005).

<sup>247</sup> Andrew Clapham, *Human Rights Obligations of Non-State Actors* (Oxford: Oxford University Press, 2006).

<sup>248</sup> McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*.

understanding of the role of NGOs.<sup>249</sup> Some have challenged the paradigm that *only* states have international human rights duties, arguing that for instance multinational companies or intergovernmental organisations do or should also be accountable for human rights,<sup>250</sup> and perhaps even ratify Conventions.<sup>251</sup> NGOs could concurrently have duties to fulfil human rights as service providers, to protect human rights as advocates, and to respect human rights in their own operations.<sup>252</sup>

These scholars recognise that international law needs to catch up with a reality where states have retreated as the “prime guarantors of human rights” and where “[n]on-state actors have taken over to set standards, to secure compliance, and to enforce human rights expectations.”<sup>253</sup> Alston, for instance, has identified a set of “key factors which are propelling non-state actors to greater prominence within the international human rights regime,” two of which he calls “the unleashing of civil society” and “privatization of service provision.”<sup>254</sup> August Reinisch has similarly argued that NGOs, trade unions, church groups, and others are part of a “‘privatized’ standard setting, ‘privatized’ supervision, and ‘privatized’ enforcement.”<sup>255</sup> He further argues that:

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<sup>249</sup> McGaughey, “From gatekeepers to GONGOs: A taxonomy of NonGovernmental Organisations engaging with United Nations human rights mechanisms,” 115.

<sup>250</sup> McBeth, “Every Organ of Society: The Responsibility of Non-State Actors for the Realization of Human Rights.”

<sup>251</sup> For instance, in 2010, the European Union became the first regional organisation to ratify a human rights treaty.

<sup>252</sup> Lafont, “Accountability and global governance: challenging the state-centric conception of human rights,” 198; Fraser, *Social Institutions and International Human Rights Law Implementation*, 123-24; McBeth, “Every Organ of Society: The Responsibility of Non-State Actors for the Realization of Human Rights,” 35.

<sup>253</sup> August Reinisch, “The Changing International Legal Framework for Dealing with Non-State Actors,” in *Non-State Actors and Human Rights*, ed. Philip Alston (New York: Oxford University Press, 2005), 75.

<sup>254</sup> Philip Alston, “The ‘Not-a-Cat’ Syndrome: Can the International Human Rights Regime Accommodate Non-State Actors?” in *ibid.*, 17-18.

<sup>255</sup> Reinisch, “The Changing International Legal Framework for Dealing with Non-State Actors,” 75.

Direct accountability of non-state actors is underdeveloped in human rights instruments, and in international law in general (...) At present one certainly cannot speak of any established system of international mechanisms whereby non-state actors are held directly accountable for human rights violations, even though one might recognize an increasing awareness that they are considered to be directly bound by human rights obligations. However, a number of recent developments may lead to a profound change in how we conceptualize human rights obligations and the human rights accountability of non-state actors.<sup>256</sup>

Reinisch wrote this in 2005 and since then there have been subtle signs of international human rights law assigning more responsibilities to non-state actors, and civil society organisations in particular. In 2006, the UN adopted its newest human rights convention, the Convention on the Rights of Persons with Disabilities (CRPD). Stephen Meyers has argued that this Convention is unique in giving a “mandate” to civil society,<sup>257</sup> and McGaughey has also argued that the Convention has taken civil society participation in UN human rights mechanisms to a new level.<sup>258</sup> “Disabled persons organisations” are explicitly given responsibility to be involved in implementing and monitoring the convention, which in turn has led other NGOs to advocate towards such organisations as if they were the state: i.e. demanding accountability.<sup>259</sup>

A counterargument to these ideas that “non-state actors” should also have human rights obligations would be that it is consistent with the rest of public international law if only states have human rights obligations, and, as we saw above, rights would arguably also be more stable if obligations were placed solely within a well-functioning state. On the other hand, state centrality has

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<sup>256</sup> Ibid., 82.

<sup>257</sup> Meyers, “NGO-Ization and Human Rights Law: The CRPD’s Civil Society Mandate.”

<sup>258</sup> McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, 53.

<sup>259</sup> Meyers, “NGO-Ization and Human Rights Law: The CRPD’s Civil Society Mandate.”

never been reflected in reality.<sup>260</sup> The reality that law needs to respond to is instead that many “non-state actors” significantly affect peoples’ rights enjoyment. But a first step to deal with this complex reality could be to disaggregate the broad category of the “non-state actor.”

### 3.2.3. Beyond the “non-state actor”

As Alston points out, the term “non-state actor” in itself has been “intentionally adopted in order to reinforce the assumption that the state is not only the central actor, but also the indispensable and pivotal one around which all other entities evolve.”<sup>261</sup> To define any “non-state actor” as having human rights duties thus implies that the state is the primary or “original” bearer of responsibility, and that other actors are defined in terms of their relation to the state. As Alston sums it up, “as far as international law is concerned, the key actors are divided into two categories: states and the rest.”<sup>262</sup> Fraser has also critiqued this

...broad and amorphous term covering a contested and unfixed category of actors, which develops over time as new actors emerge. For example, it includes individuals, families, indigenous peoples, civil society, NGOs, sporting associations, religious organisations, media, political parties, trade unions, businesses, international organisations and armed groups.<sup>263</sup>

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<sup>260</sup> See for instance Alston, *Non-State Actors and Human Rights*; Fraser, *Social Institutions and International Human Rights Law Implementation*; Randeria, “The State of Globalization: Legal Plurality, Overlapping Sovereignities and Ambiguous Alliances between Civil Society and the Cunning State in India;” Salomon, Tostensen, and Vandenhoe, *Casting the Net Wider: Human Rights, Development and New Duty-Bearers*; Manisuli Ssenyonjo, “The Applicability of International Human Rights Law to Non-State Actors: What Relevance to Economic, Social and Cultural Rights?” *The International Journal of Human Rights* 12, no. 5 (2008).

<sup>261</sup> Alston, “The ‘Not-a-Cat’ Syndrome: Can the International Human Rights Regime Accommodate Non-State Actors?” 3.

<sup>262</sup> *Ibid.*, 19.

<sup>263</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 116.

Just like Alston, Fraser argues that the term reiterates “the dominant position of the state as the primary actor in international law, and necessarily reduc[es] every other actor to an afterthought.”<sup>264</sup> Not only does the term “non-state actor” technically encompass anything from military groups to non-profit organisations and regional intergovernmental organisations, there is also a significant difference in treating “non-state actors” as potential abusers or potential promoters and protectors of rights. Much scholarship has dealt with the former, that is, seeking to establish how “non-state actors” compliance with human rights can be assured, in other words, with the accountability of non-state actors.<sup>265</sup>

My concern is rather with NGO-state partnerships within a state where the “non-state actor” assists the state in fulfilling its obligations. The most common doctrine for this type of actor is that international law is addressed to states, and whatever organisation exists within the state – such as corporations or NGOs – are mediated through the state<sup>266</sup> (and therefore is not a concern of international law). This means that states have obligations in international law; and that NGOs and corporations within a state can have implementation responsibility. In other words, states are accountable in international law, and NGOs are accountable in their given state. NGOs have a legal status under domestic law and only an “extremely weak” status under international law, which means that they can only be held accountable under domestic law.<sup>267</sup> In this sense, the state has an indirect responsibility for ensuring that domestic non-state actors do not violate human rights. The state is responsible if it fails to “regulate, monitor, prevent, investigate, prosecute, punish and repair abuse by NSAs.”<sup>268</sup> Therefore, states have an obligation to

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<sup>264</sup> Ibid., 117.

<sup>265</sup> See for example Reinisch, “The Changing International Legal Framework for Dealing with Non-State Actors.”

<sup>266</sup> Ibid., 74.

<sup>267</sup> Menno T. Kamminga, “The Evolving Status of NGOs under International Law: A Threat to the Inter-State System?” in *Non-State Actors and Human Rights*, ed. Philip Alston, 95; 107; 09.

<sup>268</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 127.

regulate “non-state actors” through “legislation, regulations and contractual obligations.”<sup>269</sup> As Fraser writes:

While there does appear to be consensus that NSAs do indeed have international human rights responsibilities, their exact source, scope and the method of enforcement remain unclear. (...) What is clear, however, is that the UN treaties create indirect obligations on NSAs to be enforced domestically by the state party.<sup>270</sup>

It is also clear that “[s]tates cannot ‘absolve’ themselves from their human rights obligations by delegating their tasks to private parties, individuals, or international organizations.”<sup>271</sup>

Some scholars, however, consider domestic NGOs to be duty bearers to the same extent as state actors, because they all work with rights implementation within the legal framework of a state. For instance, Olafsen et al. conducted a study of duty bearers of children’s right to adequate food in Uganda and considered a duty bearer to be “a person with duties towards protecting and realizing the rights of children”<sup>272</sup> – a view much more in line with the conceptualisation that my NGO informants employed, as we will see in subsequent chapters. Olafsen et al. examined the three duty bearer categories of “caretakers working in private children’s homes, State actors working in government and its institutions, and non-State actors working in civil society organizations.”<sup>273</sup> They reason that:

Under international human rights law, the State is the principal duty bearer with legal obligations of progressively realizing human rights. However, the realization of the human rights of children are the shared responsibility

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<sup>269</sup> Ibid.

<sup>270</sup> Ibid., 142-43.

<sup>271</sup> Reinisch, “The Changing International Legal Framework for Dealing with Non-State Actors,” 82.

<sup>272</sup> Monica Olafsen et al., “Examination of the roles and capacities of duty bearers responsible for protecting the human rights to adequate food, nutritional health and wellbeing in Ugandan children’s homes,” *BMC International Health and Human Rights* 18:17 (2018): 3.

<sup>273</sup> Ibid., 1-2.

between various State and non-State actors within the society; non-State actors are obliged to respect human rights as these treatises are part of the legal framework of the country.<sup>274</sup>

Here, NGOs are treated as private actors positioned directly under a state – almost as decentralised state actors – and thus “duty bearers” in the same sense as a government social work office.

Despite the growing recognition of the roles played by “non-state actors,” international legal language remains state-centred and “non-state actors” are still “marginalised in international law.”<sup>275</sup> At the same time, it is increasingly argued that “the orthodoxly narrow’ view of states as the only human rights duty-bearers is no longer appropriate.”<sup>276</sup> This is not only because the idea of state centrality has always to some extent been a “fiction in reality,”<sup>277</sup> but also because the role of the state has changed since the drafting of the main human rights treaties. Pertinent to this study are the changes around privatisation and liberalisation that have given rise to new roles for NGOs. The accounts of duties of non-state actors that do exist often remain at the global level, discussing human rights duties in relation to issues such as global poverty, climate change or multi-national corporations.<sup>278</sup> Smaller or national NGOs who act as implementers for the state are largely absent in these discussions. Such NGOs are in a grey zone because they are to some extent “institutional” or “official” as they are charged with a state’s human rights obligations, but, at the same time, their existence is evidence of individuals’ grouping together to fulfil moral duties to relieve others’ suffering. Furthermore, the literature on human rights duties of non-state actors usually discuss *whether* we can deem a certain agent morally and/or legally

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<sup>274</sup> Ibid., 4.

<sup>275</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 120.

<sup>276</sup> Ibid., 157.

<sup>277</sup> Ibid., 287.

<sup>278</sup> Clapham, *Human Rights Obligations of Non-State Actors*; Kuper, *Global Responsibilities: Who Must Deliver on Human Rights?* Salomon, Tostensen, and Vandenhoe, *Casting the Net Wider: Human Rights, Development and New Duty-Bearers*.

responsible, and not the ways in which these actors behave or conceptualise themselves as duty bearers.

To sum up what I have discussed thus far, if we consider the philosophical and legal versions of human rights duty bearing together, or what I have called the hegemonic language of human rights, we find an emphasis on the importance of placing human rights duties in stable institutions, often the state. Especially the international legal human rights duty bearer is tied to a specific version of the state, namely one that is capable of and willing to fulfil, protect and respect all the rights in the treaties it ratifies. NGOs are rarely at the centre of philosophical and legal discussions of human rights duty bearing. When they are considered, they are often lumped together with other actors as “non-state,” thus assuming the state to be a kind of “original” duty bearer. Finally, it should be clear from these discussions that the state in international law is produced as a rather abstract, but still unique entity, one with authority and one that is “above” civil society.

I now move on from accounting for how the hegemonic human rights language treats duty bearing and NGOs, to analyse how this language is (re)produced in the UN Treaty Bodies. Specifically, I will look at how the Committee on the Rights of the Child has dealt with the role of NGOs.

### 3.3. NGOs and duty bearing at the United Nations

Thus far, I have looked at what “duty bearing” means in international law and political theory, which have come make up the hegemonic human rights language, and at the ambiguous roles this leaves for NGOs in human rights law. Now, I turn to an empirical examination of how the hegemonic language is (re)produced, namely an analysis of one of the UN Committees that monitor human rights implementation globally.

When a UN human rights treaty is ratified, a Committee or “treaty body” is set up to monitor its implementation. This means that when the Convention on the Rights of the Child entered into force, the Committee on the Rights of the Child (henceforth “the Committee”) was set up. As all UN treaty



bodies, this Committee is a significant author in the writing of authoritative versions of human rights norms, including norms on the role of NGOs. With “authoritative,” I mean that the documents produced by such a committee are referred to by NGOs when engage in advocacy or explain what particular rights mean. This is not to say that the Committee’s version is the “correct” understanding of human rights norms, but rather that it represents dominant legal thinking. In order to not only get a theoretical, but also an empirical, grasp of what duty bearing and NGOs mean in the hegemonic human rights language, it is therefore relevant to examine the Committee’s documents.

The Committee consists of eighteen independent experts nominated by states, elected by states party to the treaty, and serving in their personal capacity.<sup>279</sup> In addition, NGOs also contribute to the formulation of General Comments, that is, non-binding guidelines that interpret and specify the articles of a treaty.<sup>280</sup> At the time of writing, the Committee has published twenty-five General Comments, the first in 2001 and the latest in 2021, which have been the main corpus of analysis for this section.<sup>281</sup>

The documents produced by the Committee are written in a seemingly neutral and diplomatic language, at times strikingly detached from the world in which their recommendations are to be followed. There are legitimate reasons for this language: documents like General Comments should be valid interpretations of an article for decades, a period over which the reality of rights implementation may change considerably. Furthermore, documents produced by the Committee are always compromises between diverse members who – presumably – do not always agree. Finally, General Comments should be valid for diverse member states. But while all these limitations to the Committee’s work are legitimate, it is important to understand the limiting conditions for

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<sup>279</sup> United Nations General Assembly, “Convention on the Rights of the Child,” Article 43.

<sup>280</sup> McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, 54.

<sup>281</sup> Apart from General Comments, I will also to a lesser extent consider the Committee’s Concluding Observations on state reports and reports from so-called General Days of Discussion.

the production of hegemonic human rights norms, so that we, in turn, can understand the effects that these norms have.

On the basis of my analysis of the Committee's language around NGOs, duty bearing, and partnerships, I found that NGOs were described to have two ambiguous roles in child rights implementation: in documents such as General Comments, NGOs are mainly considered "partners" in the implementation of rights, contributing to a representation of NGOs as part of the state that should implement the Convention. But another presumed role for NGOs is simultaneously evident, one that is not as directly visible from the public documents: by virtue of contributing to drafting and monitoring processes, NGOs are by the Committee also treated as actors that can balance out states by working "outside" them. In the following, I demonstrate these two simultaneous discursive constructions of NGO roles.<sup>282</sup> I will show how the Committee, because it would be against its mandate to interpret legal obligations of other actors than the state, instead has adopted a broader language of responsibilities that includes private actors, partnerships, and civil society. This discourse represents a larger trend in UN human rights work of carefully recognising "partnerships" without questioning the Conventions' state centrality. In section 3.3.1., I discuss the representation of NGOs as implementation partners. In 3.3.2., I discuss how they are considered as moral input providers to drafting and monitoring processes and as watchdogs of the state.

### 3.3.1. NGOs as partners in implementation

In Article 4 of the Convention on the Rights of the Child, it is stated that, "States Parties (...) shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention."<sup>283</sup> It is clear that "States Parties" are understood as the

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<sup>282</sup> Fraser has conducted a legal analysis of responsibilities of non-state actors in the work of six human rights treaty bodies (see Fraser, *Social Institutions and International Human Rights Law Implementation*, chapter 4). Her work has been helpful in confirming my findings and illustrating their similarities with other treaties.

<sup>283</sup> United Nations General Assembly, "Convention on the Rights of the Child," Article 4.

responsible agents for implementing child rights. With this established, the Committee cannot interpret other actors than states to have legal duties, which would be outside its mandate. However, it has at various points made comments on outsourcing domestic rights implementation to NGOs. This is a theme that “does not naturally flow from the Convention (...), as it is States that are parties to the Convention.”<sup>284</sup> Yet, the Committee devoted a so-called General Day of Discussion to the topic, itself an indicator of the need for the Committee to take a stance on the issue. Generally, NGOs are in the Committee’s documents described as having “roles” and “responsibilities,” and encouraged to work in “partnership” with the state – all vague terms open to interpretation.

If NGOs cannot be the legal duty bearers of rights, what can they do when it comes to implementation? As Fraser has pointed out, the treaty bodies sometimes refer to “legislative and other measures”<sup>285</sup> of implementation. While the state is expected to implement “legal measures,” it will often be actors like NGOs who take “other measures,” such as awareness raising, education, or information dissemination in relation to rights.<sup>286</sup> According to Fraser, the Committee on the Elimination of Discrimination Against Women (CEDAW) and CRC “are the most open to other measures of implementation” and “[t]his more holistic approach is perhaps due to their explicit focus on modifying culture, and relatively diverse Committee memberships.”<sup>287</sup> States are required to report on the extent of civil society’s participation, in particular NGOs,

...in the promotion and protection of human rights within the country, and the steps taken by the Government to encourage and promote the

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<sup>284</sup> United Nations Committee on the Rights of the Child, “The Private Sector as a Service Provider and its Role in Implementing Child Rights,” *CRC/C/121* (2002), General Day of Discussion, 4.

<sup>285</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, chapter 3.

<sup>286</sup> *Ibid.*, 91.

<sup>287</sup> *Ibid.*, 88.

development of a civil society with a view to ensuring the promotion and protection of human rights.<sup>288</sup>

In addition to assigning NGOs the responsibility of awareness raising, the Committee has also considered them as implementers of more tangible services. The Committee has made efforts not to take sides as to whether they approve or not of outsourcing service provision to NGOs. At the aforementioned General Day of Discussion, “[t]he important question was not whether the provision of services by public or private actors was better, but rather how we can ensure that the appropriate services are delivered to all children.”<sup>289</sup> This observation is confirmed by Fraser, who argues that as long as the treaty is effectively being fulfilled, the Committee is not overly concerned with the methods of implementation.<sup>290</sup> According to Fraser, the treaty bodies are mainly concerned with the intention of the treaties, namely that human rights are enjoyed in practice and not only protected in theory.<sup>291</sup> But despite this “neither for or against” attitude to privatisation that has come up at various points, at other points the Committee has taken more specific stances on the topic. In the same General Day of Discussion, they wrote that “while the Committee welcomed the role of non-state actors, including NGOs and businesses, it was increasingly concerned at the growing trend of privatization.”<sup>292</sup>

General Comment 7 on implementing child rights in early childhood recommends that:

...States Parties support the activities of the non-governmental sector as a channel for programme implementation. It further calls on all non-State service providers (‘for profit’ as well as ‘non-profit’ providers) to respect the principles and provisions of the Convention and, in this regard, reminds States

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<sup>288</sup> UN, Report of the Secretary General, quoted in *ibid*.

<sup>289</sup> United Nations Committee on the Rights of the Child, “The Private Sector as a Service Provider and its Role in Implementing Child Rights,” 2.

<sup>290</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 66-67.

<sup>291</sup> *Ibid.*, 6.

<sup>292</sup> United Nations Committee on the Rights of the Child, “The Private Sector as a Service Provider and its Role in Implementing Child Rights,” 4.

Parties of their primary obligation to ensure its implementation. Early childhood professionals – in both the state and non-state sectors – should be provided with thorough preparation, ongoing training and adequate remuneration. In this context, States Parties are responsible for service provision for early childhood development. The role of civil society should be complementary to – not a substitute for – the role of the State. Where non-State services play a major role, the Committee reminds States Parties that they have an obligation to monitor and regulate the quality of provision to ensure that children’s rights are protected and their best interests served.<sup>293</sup>

In this quote, the Committee takes a very specific stance on the role of civil society in implementing the Convention. They, however, keep emphasising that enabling the private sector to provide services “does not in any way lessen the State’s obligation to ensure for all children within its jurisdiction the full recognition and realization of all rights in the Convention.”<sup>294</sup>

In many instances the Committee has applauded the practice of states delegating implementation to NGOs. For instance, the Committee has written that “[d]irect material assistance to children in the form of services may be provided either by the State or via State support to civil society organizations.”<sup>295</sup> States should support civil society “through funding, accreditation and regulation.”<sup>296</sup> Of course, the Committee also underlines that “States are legally obliged to ensure that non-State service providers operate in accordance with the provisions of the Convention.”<sup>297</sup> In other words, “While States are the primary duty bearers, civil society activities may complement States’ efforts in developing and delivering innovative and

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<sup>293</sup> United Nations Committee on the Rights of the Child, “General comment No. 7 (2005): Implementing Child Rights in Early Childhood,” *CRC/C/GC/7/Rev.1* (2005), General Comment, para. 32.

<sup>294</sup> United Nations Committee on the Rights of the Child, “General Comment No. 5 (2003): General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6),” para. 44.

<sup>295</sup> United Nations Committee on the Rights of the Child, “General comment No. 21 (2017) on children in street situations,” para. 49.

<sup>296</sup> *Ibid.*, para. 15.

<sup>297</sup> *Ibid.*

personalized service provision.”<sup>298</sup> Another clear example is the Committee’s quotation of a different UN treaty body’s reasoning on responsibility for the right to health. This quote shows how the UN treaty bodies distinguish between accountability (which, at the international legal level, is exclusively for States) and responsibility (a vaguer notion, which even at the international level can be loosely distributed):<sup>299</sup>

While only States are parties to the Covenant and are thus ultimately accountable for compliance with it, all members of society – individuals, including health professionals, families, local communities, intergovernmental and non-governmental organizations, civil society organizations, as well as the private business sector – have responsibilities regarding the realization of the right to health. State parties should therefore provide an environment which facilitates the discharge of these responsibilities.<sup>300</sup>

This quote is interesting because it is very close to the way CHILDLINE employees conceptualised duty bearing – emphasising “everyone’s” responsibility. It is indeed evidence of the fact that duty bearing of children’s rights quickly moves out of the “institutional” or “public” conceptualisation – which can be strictly defined and ideal – and into being a more “operative” concept,<sup>301</sup> as soon as it (even just to a limited extent) has to deal with realities and practice.

Similarly, the Committee has written that private service providers, both for profit and not-for-profit, thus have “responsibilities and obligations” under

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<sup>298</sup> Ibid., para. 19.

<sup>299</sup> For this distinction, see also United Nations Committee on the Rights of the Child, “General Comment No. 5 (2003): General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6),” para. 56.

<sup>300</sup> United Nations Committee on the Rights of the Child, “The Private Sector as a Service Provider and its Role in Implementing Child Rights,” 9. Another example is United Nations Committee on the Rights of the Child, “General Comment No. 5 (2003): General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6),” para. 56.

<sup>301</sup> Haslanger, “What Are We Talking About? The Semantics and Politics of Social Kinds.”

the Convention.<sup>302</sup> While these obligations may not be on par with the state's, the Committee has called for recognising "the increasing role of civil society in providing (...) services."<sup>303</sup> Fraser's analysis also confirms that a "role" for civil society is promoted by most treaty bodies.<sup>304</sup> Still, the Committee underlines that "in any decentralization or privatization process, the Government retains clear responsibility and capacity for ensuring respect of its obligations under the Convention."<sup>305</sup>

The above are examples of language that is positive towards the role of NGOs as actors that are not against the state, but rather support it, as long as the state has ultimate accountability. The same is evident in the language of "partnership" with all sectors of society, with which the practice of delegating implementation to NGOs is often described. For instance, the General Comments use terms like "engag[ing] all sectors of society" in the implementation of the UNCRC,<sup>306</sup> encouraging states "to work closely with NGOs in the widest sense,"<sup>307</sup> emphasising that social measures for "fulfilling child protection rights and provide for basic and targeted services (...) can be initiated and implemented by both State and civil society actors under the responsibility of the State,"<sup>308</sup> and an encouragement to states to develop "partnerships with all sectors of society, including children themselves, NGOs and the media."<sup>309</sup> The Committee also asks States to

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<sup>302</sup> United Nations Committee on the Rights of the Child, "The Private Sector as a Service Provider and its Role in Implementing Child Rights," 2.

<sup>303</sup> Ibid.

<sup>304</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 93.

<sup>305</sup> United Nations Committee on the Rights of the Child, "The Private Sector as a Service Provider and its Role in Implementing Child Rights," 11.

<sup>306</sup> United Nations Committee on the Rights of the Child, "General Comment No. 5 (2003): General measures of implementation of the Convention on the Rights of the Child (arts. 4, 42 and 44, para. 6)," para. 1.

<sup>307</sup> Ibid., para. 58.

<sup>308</sup> United Nations Committee on the Rights of the Child, "General comment No. 13 (2011): The right of the child to freedom from all forms of violence," in *CRC/C/GC/13* (2011), General Comment, para. 43.

<sup>309</sup> Ibid., para. 47(a)(iii).

...encourage and support local-level, partnership-based, specialized interventions on the basis of a child rights approach, small and flexible, with adequate budgets, often led by civil society organizations with local expertise. These interventions should be coordinated by local governments and supported by the State, through the national child protection system.<sup>310</sup>

Already here, in a setting not far from Convention drafting, we see the mixing of concepts that will be even more evident in subsequent chapters. The state is given a primary status, but a “partnership” discourse – also when it comes to duties for children’s rights – is clearly evident. This partnership language is not unique to the Committee in the Rights of the Child, but part of a broader trend in UN human rights work of giving increasing responsibility to civil society organisations, as we saw above with the example of UN’s most recent human rights convention, the Convention on the Rights of Persons with Disabilities (CRPD).

In sum, if we read the documents of the Committee on the Rights of the Child, an image of NGOs as good-doing civil society organisations that can be engaged as “partners” to help the state in rights implementation emerges. As a former member of the Committee writes, civil society organisations “have an important role in providing services to children on the ground.”<sup>311</sup> But because this image has to be globally applicable, any mentioning of specific states or conditions for civil society – such as shrinking civic spaces and autocratisation – are left out. The ideal types of state and civil society are the only things left, excluding the idea that state and civil society in practice could be hybrids or the former could be repressing the latter. But if we look beyond the Committee’s documents, at their practice, we can see the outlines of a perception that states NGOs as watchdogs.

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<sup>310</sup> United Nations Committee on the Rights of the Child, “General comment No. 21 (2017) on children in street situations,” para. 20.

<sup>311</sup> Kirsten Sandberg, “The Convention on the Rights of the Child and the Vulnerability of Children,” *Nordic Journal of International Law* 84 (2015): 245.



### 3.3.2. NGOs as watchdogs in drafting and reporting cycles

The above-described framing of NGOs as partners to the state stands in contrast to another discursive construction of NGOs that is visible in the Committee's work, namely as the potentially malign state's moral opposite. This is not a discursive construction we can observe directly in the Committee's documents because it has to do with the "behind the scenes" work of NGOs: their presence as input to the Committee itself and their writing of shadow reports.<sup>312</sup> These practices indicate that the international human rights monitoring system considers NGOs' "good" and "moral" contributions to the work of the UN to be coming from somewhere "outside" rather than "inside" the state. Recalling Ferguson and Gupta's theorising about spatialising the state,<sup>313</sup> we can here see that the UN in this case subscribes to the idea that civil society is both "encompassed" by the state, and separate from it. As a former Committee member writes,

Civil society organizations have a vital role to play regarding children's rights in following and evaluating the activities of the government, doing advocacy work, providing the Committee with supplementary information in the reporting process and seeking to make the government follow up the Committee's concluding observations to the state.<sup>314</sup>

The framing of NGOs as moral input providers does have some basis in the Convention text itself. Although not directly referring to NGOs, Article 45(1) of the UNCRC states that

The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate

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<sup>312</sup> For an overview of NGO roles at the UN, see McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*.

<sup>313</sup> Ferguson and Gupta, "Spatializing States: Toward an Ethnography of Neoliberal Governmentality."

<sup>314</sup> Sandberg, "The Convention on the Rights of the Child and the Vulnerability of Children," 245.

to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates.<sup>315</sup>

McGaughey attributes the existence of this article to the input given by NGOs themselves in drafting the Convention,<sup>316</sup> and the Committee's rules have confirmed that "other competent bodies" include NGOs.<sup>317</sup> In other words, NGOs are treated as human rights experts to be consulted and who should contribute to drafting processes and submit shadow reports to balance out the potential propaganda in state reports. We can also discern this role by looking at the participation list of Days of General Discussion at the Committee, which is full of NGO representatives.<sup>318</sup>

The NGO monitoring process at the UN has become increasingly institutionalised "through optional provisions for treaty implementation that involve the right of citizens and civil society to report violations."<sup>319</sup> As McGaughey has shown, the UN encouragement of NGO participation in treaty body work consolidated in the 1990s.<sup>320</sup> In the new Convention on the Rights of Persons with Disabilities, the monitoring and advocacy role is "specified in the text of the Convention itself."<sup>321</sup> In general, the treaty bodies seek to engage more and more structurally with NGOs, seeing it as part of "strengthening the effectiveness" of the treaty body system.<sup>322</sup>

In explaining why NGOs play key roles in an otherwise state-centric international human rights system, McGaughey has offered two accounts: the

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<sup>315</sup> United Nations General Assembly, "Convention on the Rights of the Child," Article 45(a).

<sup>316</sup> McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, 52.

<sup>317</sup> Committee on the Rights of the Child, cited in *ibid*.

<sup>318</sup> United Nations Committee on the Rights of the Child, "The Private Sector as a Service Provider and its Role in Implementing Child Rights."

<sup>319</sup> Meyers, "NGO-Ization and Human Rights Law: The CRPD's Civil Society Mandate," 2.

<sup>320</sup> McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, 30.

<sup>321</sup> Meyers, "NGO-Ization and Human Rights Law: The CRPD's Civil Society Mandate," 2.

<sup>322</sup> McGaughey, *Non-Governmental Organisations and the United Nations Human Rights System*, 31.

“pragmatic account,” that the UN is under-resourced and need all the information it can get to fill a gap in the system; and the “normative account,” “based on the expectation that involving NGOs contributes to a democratisation of the UN human rights system and is a form of governance.”<sup>323</sup> Her “normative account” is similar to my analysis of the “moral watchdog role”: not only does the UN need NGOs because state information is never perfect, but also because there is a belief in the morality of NGOs. McGaughey has interviewed treaty body members on the consultative role of NGOs at the UN, and some of the members referred to NGOs that were too co-opted by their governments as “fake NGOs” because they did not provide adequate “non-state” information.<sup>324</sup> Yet, the NGO that is “co-opted” by the government (also known as the “government-organised NGO” or GONGO) is exactly the one which is likely to partner with the state in implementation. Therefore, the framing of these two roles seems rather ambiguous.

To sum up, I have in this section analysed how the Committee on the Rights of the Child positions itself on NGO-state partnerships, both explicitly in its documents and implicitly in how it works and whom it gives voice to. I conclude that in discussing the outsourcing of service provision to NGOs, two ambiguous imaginations of an ideal NGO are discursively constructed. On the one hand, the Committee embraces the idea of NGO-state partnerships within Member States; on the other hand, it considers NGOs not as domestic implementers, but as contributors to the international human rights monitoring system, as the Committee itself is reliant on the moral input of NGOs. In other words, NGOs are expected to work both “inside” and

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<sup>323</sup> McGaughey, “From gatekeepers to GONGOs: A taxonomy of NonGovernmental Organisations engaging with United Nations human rights mechanisms,” 128-29.

<sup>324</sup> *Ibid.*, 125.

“outside” the state.<sup>325</sup> By discursively constructing NGOs both as “partners” of the state and moral watchdogs of the state – or as inside and outside the state – the Committee on the Rights of the Child is part of upholding the contradictory expectations of NGOs in human rights practice that this study is concerned with.

This examination of the Committee on the Rights of the Child has also served to empirically document the hegemonic human rights language. We have seen that the Committee to a large extent writes about states, NGOs and responsibility in the same state-centred manner as the Conventions (since it never questions the primacy of state responsibility), but also opens up for the idea that duty bearers are others than just the state, as we saw with the formulations about partnerships and the responsibility of individuals. For several reasons as outlined above, the Committee is very limited in how it can write about “state” and “civil society,” resulting in generic and far-from-reality ideal types. And while the Committee members are presumably well aware of these limitations, the effects of their documents are so significant that it is necessary to scrutinise the framings they produce. I now turn to considering why this is important for the larger argument about hegemonic and vernacular rights languages.

### 3.4. Towards vernacular conceptions of duty bearing

There is a hegemonic version and numerous vernacular versions of what human rights mean. In the same way, there are both hegemonic and vernacular versions of what the “duty bearer” of human rights means. This chapter has presented the hegemonic version of duty bearing, the one we see

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<sup>325</sup> An objection here could be that it is not the same NGOs that are domestic implementers, and international advocates. To a certain extent this is true, however, many of the NGOs that contribute to international human rights monitoring started as small, domestic NGOs, and have to negotiate within a domestic human rights sphere, which includes the legislation of a state. Indeed, I will argue that that these are not two distinct “NGO roles” – that an NGO is either a watchdog or an implementer – but rather that the state they operate within conditions the extent to which they can or have to be one or the other.

in much political theory and legal scholarship on human rights. Here, duties are conceptualised as a definitional part of human rights, but rights still hold moral primacy over duties. It is a language in which human rights are theoretically more secure if their corresponding duties are placed within institutions rather than individuals. International law has placed human rights duties primarily within the institution of the state, but is faced with a reality of potential responsibilities of “non-state actors.” I have shown how international law has been part of cementing this idea of the state’s centrality. The international human rights regime has put the obligation to respect, protect, and provide for human rights on states, having the effect of lumping together other actors as “non-state,” and thus assuming the state to be a kind of “original” duty bearer. It also assumes a unified and robust state, leaving little room for the reality of fragmented states such as the Indian. This has led to a legal “fiction” of state centrality in human rights implementation, a fiction that is constantly challenged by realities of other actors than the state playing important roles – as abusers, protectors, and providers of people’s human rights.

I have also shown, through an empirical example, how the Committee on the Rights of the Child is part of (re)producing the hegemonic human rights language, while also at times finding it difficult to maintain the state-centredness due to it being slightly “closer” to reality than the Conventions. NGOs were in the Committee’s documents discursively constructed as assisting states in human rights fulfilment, but, through the Committee’s practice, it was evident that NGOs were also considered moral watchdogs able to balance out a potentially malign state. In terms of how the Committee on the Rights of the Child (and the larger treaty body system it is embedded in) has dealt with the increase of NGO-state partnerships for child rights implementation, my analysis suggests that it is difficult to give a precise definition of how the Committee interprets duty bearing within NGO-state partnerships. On the one hand, it seems clear that human rights obligations are for the state and not private actors; that NGOs are not accountable under international law, as they do not ratify treaties; and that a state domestically can outsource implementation of rights-based services to private actors, but that it is then the state’s duty to ensure that these actors respect the Convention. On the other hand, it is possible to identify a developing

language of a “role” and “mandate” for civil society. There is no doubt that the Committee embraces a view that all members of society have responsibility for children’s rights, and that partnerships with civil society organisations are seen as a positive development.

It has also been clear from this chapter that the duty bearer concept is chiefly derived from law and theory. I, conversely, argue that there is a need for an empirical, and specifically ethnographic, examination of what it means in more vernacular terms to refine our understanding of the concept. The next chapters will delve into one particular version of duty bearing, namely the one that manifests itself within NGO-state partnerships in India. This is a particularly interesting one to examine, because an NGO-state partnership is a practice where duties by definition are divided between the state and the voluntary sector. It is also interesting because it is conceptually messy, with influences from numerous other value sets than only a “rights-based” one. Studies of vernacular rights conceptions have already contributed to refining our theories of human rights, and I argue that studies of vernacular versions of duty bearing will be an important contribution to this scholarship. As we will see, the version of duty bearing that I encountered in the CHILDLINE context was not as state-centric as the hegemonic version, but rather an idea centred around “everyone” taking responsibility for others’ rights; the need to appeal to a duty bearer was regarded as central, but whether this duty bearer was an NGO, a company, a person, or an undefined “stakeholder” was not as important.

Finally, the present chapter has sought to explain why there are contradictory expectations of NGOs in human rights practice, in this case from the perspective of international human rights law. Because this field is so state-centric, the way we talk about human rights practice more broadly also ends up being artificially state-centric. Actors such as the Committee on the Rights of the Child constantly have to adopt positions on NGOs, privatisation, and partnership with civil society, since this is the reality they face – at the same time as they operate within the clearly delineated boundaries of international law that governs relations between states. In the next chapter, we move from international law to the Indian state, in order to examine how the role of human rights NGOs and NGO-state partnerships are discursively constructed there.



## 4. NGO-state partnerships in a rights-based, neoliberal and autocratising India

[C]ivil society has to work within the framework laid down by the state. At no moment in history is this more sharply illustrated than the present in India.<sup>326</sup>

This chapter asks how the Indian state's particular history and characteristics condition the roles and practices of rights-based NGOs in the country. I take as my point of departure the contradictory conceptions of human rights NGOs that I introduced in Chapter 1, i.e. that they are simultaneously imagined as part of an "ideal" state and as "band-aids" to "non-ideal" states that do not themselves have the will or resources to protect human rights. By examining one state in more detail, I find that the case of India is neither one where NGOs have enough space to play the ideal watchdog role, nor one where the state has retreated to the extent that NGOs are band-aids. Rather, the state is both expanding its control of NGOs, which limits their watchdog role, and outsourcing a service implementation role to them. NGOs become an extended part of the state apparatus, and the Indian state's envisioning of

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<sup>326</sup> Neera Chandhoke, "Social Rights and the Paradox of Indian Democracy," in *The State in India. Ideas, Norms and Politics*, ed. Vidhu Verma (Hyderabad: Orient Blackswan Private Limited, 2019), 55.



the ideal rights-based NGO is one that amounts to a non-political service provider.<sup>327</sup>

How did this discursive construction of the ideal NGO role in India emerge? I argue that the answer lies in the paradoxical nature of the Indian state as simultaneously neoliberal, autocratising, and rights-based. This paradox will serve to show why the roles of NGOs are necessarily complex and dependant on the state in which they operate, thus complicating the state-centred view of the human rights duty bearer that was discussed in Chapter 3, by showing how NGOs are never an ideal type of “civil society,” but have to negotiate particular political conditions.

In 4.1., I briefly present my approach to studying state documents in this chapter. In 4.2., I discuss the Indian state through the aforementioned paradox. Then I move on to how this paradox has manifested itself in NGO regulation and child rights legislation. In 4.3., I analyse the Indian state’s regulation of the NGO sector, arguing that the main tendencies over the last decades have been a tightened control of the sector and an increased outsourcing of social services to NGOs – together resulting in, and reinforcing, the state’s discursive construction of the ideal NGO as a non-political service provider. In 4.4., I turn to the other part of the paradox, namely the expansion of a rights regime, demonstrating how civil society, an activist Supreme Court, and an, at times, willing government have succeeded in adopting a number of rights-based laws for children. In 4.5., I conclude by arguing that Indian state documents discursively construct NGOs as ideally part of the state. Because NGOs in India can only be watchdogs to a very limited extent due to increasing restrictions, they are left to play the role of the service implementer or “partner,” in other words, a role encouraged by the state.

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<sup>327</sup> By using the term “non-political,” I want to convey how Indian legislation frames the ideal role for NGOs in India. I do not claim that NGOs are not doing political work – on the contrary, as I argue later in this chapter, I see their work as always political. But several legal acts in India do not allow NGOs to be engaged in “political” work, a deliberately vague and rarely qualified term. As I will elaborate below, restricting “political” NGO work has a chilling effect on NGOs that *might* be considered “political” (such as those working with civil and political rights), and many of them instead end up focusing on service provision and child rights (as opposed to other rights).

## 4.1. Implementation on paper and in reality

During my fieldwork, I often met NGO workers who said that schemes, funds, rights, Committees, Commissions – the list goes on – existed only “on paper.” In practice, NGOs needed to push for this “paper” to become reality. Before I turn to how this happens in the next two chapters, this chapter focuses only on the “paper” itself: the Indian state’s national laws and policies.<sup>328</sup> Curiously, much of what I here designate paper itself claims to be implementation: legal acts implement the UN Convention on the Rights of the Child, a national policy implements the legal acts, an action plan implements the policy, and a scheme implements the action plan. In this chapter, I study the implementation that happens “on paper.”<sup>329</sup>

It is well known that we cannot simply study “the state” as a homogenous entity,<sup>330</sup> but rather as something that is manifesting itself through a multitude of institutions and experiences, and through networks of different modes of organisation.<sup>331</sup> With my aim of showing how the Indian state envisions a particular ideal role for NGOs, I will in this chapter focus on the state’s “writing practices”<sup>332</sup> – or “paper” – seeing the state as constructing itself through

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<sup>328</sup> Although India is a federal and to a certain extent, decentralised state, I will focus on national laws here for three reasons. First, issues of fundamental rights are legislated about from the centre. Second, my experience with local NGOs in both North and South India taught me that they to a large extent work with the same national acts, institutions and schemes when it comes to advocacy for and implementation of children’s rights. Third, CHILDLINE is part of a centrally sponsored scheme, the Integrated Child Protection Scheme (ICPS).

<sup>329</sup> For the anthropological search for where “implementation” actually happens, or whether it happens at all, see Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*.

<sup>330</sup> Verma, “Introduction. The State in India: Contesting Perspectives,” 17-18.

<sup>331</sup> Dolly Arora, “State Violence, Coercion and Human Rights in India,” in *The State in India: Ideas, Norms and Politics*, ed. Vidhu Verma (Hyderabad: Orient Blackswan, 2019), 319. See also Chapter 1 for my approach to studying the state.

<sup>332</sup> Veena Das, “The Signature of the State: The Paradox of Illegibility,” in *Anthropology in the margins of the state*, ed. Veena Das and Deborah Poole (Santa Fe; Oxford: School of American Research Press; James Currey Ltd, 2004), 9-10.

documentary practice.<sup>333</sup> As such, I do not aim to come to any conclusions about how the Indian state “behaves” or what the motivations of politicians or bureaucrats are, but rather how NGO roles and child rights are presented in the state’s writing practices. Although an interview study with politicians and bureaucrats would have been able to shed light on their rationalities and views on why NGOs are regulated as they are, my focus is the NGO perspective. The state conditions the work of NGOs, in particular through laws and policies. Central schemes, policies and laws are what NGOs across India relate to as a common framework, and it is therefore worth investigating how these documents frame what NGOs do and are allowed to do.

A complexity to deal with here is that NGOs are not easily separable from the state – as I will show in the next chapter, they are sometimes even hybrids – and that the way NGOs are represented in state documents is also affected by NGOs themselves. NGOs in India have been defined as part the governance apparatus<sup>334</sup> and of the developmental state.<sup>335</sup> Indeed, “state” and “civil society” were never neatly separate entities in India (or elsewhere).<sup>336</sup> Therefore, as Michel-Ralph Trouillot has argued, in order to study the state, we also need to study those institutions that have “statelike processes and practices,”<sup>337</sup> and that includes NGOs. NGOs are indeed “implementers” of

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<sup>333</sup> Also an approach used by Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India* and Hull, *Government of Paper: The Materiality of Bureaucracy in Urban Pakistan*.

<sup>334</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India.”

<sup>335</sup> Corbridge et al., *Seeing the State: Governance and Governmentality in India*, 7.

<sup>336</sup> Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” 81; Rob Jenkins, “NGOs and Indian Politics,” in *The Oxford Companion to Politics in India*, ed. Niraja Gopal Jayal and Pratap Bhanu Mehra (Oxford: Oxford University Press, 2010); Randeria, “The State of Globalization: Legal Plurality, Overlapping Sovereignities and Ambiguous Alliances between Civil Society and the Cunning State in India;” Sheth and Sethi, “The NGO sector in India: historical context and current discourse,” 50; R. Srivatsan, *Seva, Saviour and State: Caste Politics, Tribal Welfare and Capitalist Development* (New Delhi: Routledge, 2015), 87-88.

<sup>337</sup> Michel-Ralph Trouillot, “The Anthropology of the State in the Age of Globalization,” *Current Anthropology* 42, no. 1 (2001): 130.

policy if we, as Mangla has done, define “policy implementation” as “the series of tasks undertaken by *individuals and groups* for achieving the state’s policy objectives over its territory.”<sup>338</sup> But regardless of how enmeshed state and civil society actors are in reality, an imagination of the state as somehow simultaneously “above” and “encompassing” civil society is continuously “produced through routine bureaucratic practices.”<sup>339</sup> To study the state’s framing of NGOs through its own writing practices is therefore to study the state’s framing of a part of its own apparatus. Interestingly, the framing of the NGO-within-the-state apparatus consists of characterising them as *non*-state, *non*-governmental – as both vertically “under” and “encompassed” by the state. Before I go into the details with these state documents, I will give a background to the neoliberal-autocratisation-rights paradox in India.

#### 4.2. The paradox of a rights-based, neoliberal, and autocratising state

In 2009, India adopted the Right to Education Act, a landmark national law, after decades of advocacy. Supreme Court judgements and a constitutional amendment made primary education free and compulsory as a right for children between six and fourteen years old. At the same time, India’s 11<sup>th</sup> Five Year Plan called for a larger involvement of voluntary organisations as implementers of the government’s social programmes for children. One year later, in 2010, the parliament amended the Foreign Contribution (Regulation) Act (FCRA), hence making it more difficult for NGOs to receive foreign money. These three acts represent seemingly contradictory tendencies in Indian state practice: in rights-based legislation, the state vows legal responsibility for children’s rights; in handing out implementation to voluntary organisations, it distributes this responsibility to a sector that is

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<sup>338</sup> Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*, 37-38. (emphasis mine).

<sup>339</sup> Ferguson and Gupta, “Spatializing States: Toward an Ethnography of Neoliberal Governmentality,” 981.

legally *not* the state; and in the FCRA, it makes it difficult for these organisations to diversify their funding to donors outside the Indian state.

Jayal has succinctly pinpointed this paradox<sup>340</sup> as “the recognition of social rights in a time of neoliberal ascendancy.”<sup>341</sup> In other words, the proliferation of social and economic rights has happened at the same time as the state is withdrawing from public provisioning.<sup>342</sup> Many other authors have also highlighted this contradiction.<sup>343</sup> For instance, Erica Bornstein and Aradhana Sharma point to the intersection of “the global, if uneven, diffusion of neoliberal good governance and development policies” and “the postcolonial Indian history of legal and moral civil society activism.”<sup>344</sup> Madhok has also highlighted how remarkable it is that laws such as the National Food Security Act that “expanded the rights dispensation of the postcolonial state” were adopted in a neoliberal era.<sup>345</sup> As discussed in Chapter 1, this is not just an Indian phenomenon. Scholars have observed the global simultaneous rise of neoliberalism and human rights movements, and discussed whether these are parallel developments or constitutive of each other. I intend to contribute to the study of this paradox by zooming in on its effects on two particular arenas in India: the NGO sector and child rights legislation. But before I turn to that, I will describe how the paradox unfolds in India on a more general level

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<sup>340</sup> By examining this as a “paradox,” I mean that it is a conceptual paradox: simply put, neoliberalism calls for a smaller state, and social rights legislation calls for a more expansive state. Of course, the fact that these tendencies are simultaneously observable, suggests that it is not practically a paradox. What I try to explain in this chapter, and in the study more broadly, is why this conceptual paradox does not turn out to be a practical paradox.

<sup>341</sup> Niraja Gopal Jayal, *Citizenship and its Discontents: An Indian History* (Cambridge, Massachusetts; London, England: Harvard University Press, 2013), 191.

<sup>342</sup> *Ibid.*, 164.

<sup>343</sup> For a review of the literature of rights-based legislation in the context of neoliberalism in India, see Nilsen, “India’s Turn to Rights-Based Legislation (2004-2014): A Critical Review of the Literature.”

<sup>344</sup> Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” 77.

<sup>345</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, 101-03.

by discussing the rise of neoliberalism and the autocratisation in the country (4.2.1.) and the simultaneous rise of social rights legislation (4.2.2.).

#### 4.2.1. Neoliberalisation and autocratisation in India

While neoliberalism and social rights legislation have arisen simultaneously in India, an overlapping but slightly newer tendency is autocratisation. The political climate today is more one of neoliberal autocratisation and less one of social rights legislation. However, these three tendencies have all developed over the same decades, and they therefore all serve as a necessary background to understand the conditioning environment for NGOs in India today. This section will contextualise these characteristics of the present Indian state and relate them to NGOs and child rights.

##### 4.2.1.1. Neoliberalisation

It is nearly impossible to study any aspect of contemporary Indian society without identifying a shift with liberalisation, that is, the economic reforms of the Indian markets and the structural adjustments that took place during the late 1980s and early 1990s that are often described as the opening up of the Indian economy.<sup>346</sup> The liberalisation included the adoption of a number of recommendations from the International Monetary Fund (IMF), such as reducing the list of policy spheres restricted to the public sector, allowing multinationals to hold a majority in joint ventures in many sectors, decreasing import quotas and tariff barriers, and more.<sup>347</sup> This period also saw the introduction of New Public Management, including public-private partnerships and “the outsourcing of public services to nongovernmental

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<sup>346</sup> Stuart Corbridge, “The Political Economy of Development in India since Independence,” in *Routledge Handbook of South Asian Politics*, ed. Paul Brass (New York: Routledge, 2010), 305; John Harriss, “Political change, political structure, and the Indian state since Independence,” in *Routledge Handbook of South Asian Politics. India, Pakistan, Bangladesh, Sri Lanka, and Nepal*, ed. Paul R. Brass (New York: Routledge, 2013), 55.

<sup>347</sup> Government of India, quoted in Michael James Levien, “Regimes of Dispossession: Special Economic Zones and the Political Economy of Land in India” (PhD UC Berkeley, 2013), 56.

organizations in the name of decentralization.”<sup>348</sup> The economic liberalisation led to what has been called a neoliberal shift in Indian politics.<sup>349</sup> The current role of the Indian voluntary sector also needs to be placed in this historical context of neoliberalisation.<sup>350</sup> As the state withdrew funding from sectors such as agriculture and public health, the foreign funded NGOs in these sectors boomed.<sup>351</sup> With state withdrawal, NGOs also went into contractual agreements with either the government or other donors to provide public services, which arguably weakened the responsibility of the state towards citizens.<sup>352</sup>

#### 4.2.1.2. *Autocratisation*

In recent years, India has shown signs of autocratisation, moving away from being an electoral democracy towards an electoral autocracy.<sup>353</sup> Several scholars have pointed to current prime minister Modi’s combination of “strong leadership,” authoritarian populism, neoliberalism, and developmentalism.<sup>354</sup> An indicator of autocratisation is often considered to be the

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<sup>348</sup> Jayal, *Citizenship and its Discontents: An Indian History*, 176.

<sup>349</sup> Nitasha Kaul, “Rise of the Political Right in India: Hindutva-Development Mix, Modi Myth, and Dualities,” *Journal of Labour and Society* 20 (2017).

<sup>350</sup> However, although the state-sponsored NGO has a particular function and status in neoliberal India, it is not only a neoliberal trend. For an overview of state-NGO relations from the 19<sup>th</sup> century until the early 1990s, see Sen, “Non-profit organisations in India: historical development and common patterns.”

<sup>351</sup> Roy, “The NGO-ization of Resistance.”

<sup>352</sup> Jakimow, *Peddlers of Information. Indian Non-Government Organizations in the Information Age*, 23; Siddhartha Sen, “Some Aspects of State-NGO Relationships in India in the Post-Independence Era,” *Development and Change* 30 (1999): 329.

<sup>353</sup> Aminah Mohammad-Arif and Jules Naudet, “Introduction. Academia, Scholarship and the Challenge of Hindutvaism: Making Sense of India’s Authoritarian Turn,” *South Asia Multidisciplinary Academic Journal* 24/25 (2020); Widmalm, *Routledge Handbook of Autocratization in South Asia*, 5.

<sup>354</sup> Priya Chacko, “The Right Turn in India: Authoritarianism, Populism and Neoliberalisation,” *Journal of Contemporary Asia* 48, no. 4 (2018); Subir Sinha, “‘Strong leaders’, authoritarian populism and Indian developmentalism: The Modi moment in historical context,” *Geoforum* 124 (2021).

repression of civil society organisations.<sup>355</sup> Since 1989, the market-oriented and Hindu-nationalist Bharatiya Janata Party (BJP) has achieved increasing electoral victories, and were part of government coalitions between 1998 and 2004.<sup>356</sup> The BJP subsequently won both the 2014 and 2019 elections, and it has been argued that its rule has led to a shift towards state retrenchment<sup>357</sup> as well as an increased hostility towards civil society organisations.<sup>358</sup> While the neoliberalisation tendency began long before Modi, the autocratisation tendency has intensified during the Modi years, a period which Grahn et al. characterise as an “episode of autocratisation.”<sup>359</sup>

BJP represents an ideology of the market more than one of rights.<sup>360</sup> As Modi himself has said, “[i]n the last 75 years, we only kept talking about rights, fighting for rights and wasting our time,” emphasising instead the duties of the Indian citizen.<sup>361</sup> Neera Chandhoke argues that the

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<sup>355</sup> Sandra Grahn, Staffan I. Lindberg, and Sten Widmalm, “Autocratization in South Asia,” in *Routledge Handbook of Autocratization in South Asia*, ed. Sten Widmalm (New York: Routledge, 2022), 8.

<sup>356</sup> Llyod I. Rudolph and Susanne Hoeber Rudolph, “The old and the new federalism in independent India,” in *Routledge Handbook of South Asian Politics: India, Pakistan, Bangladesh, Sri Lanka, Nepal*, ed. Paul R. Brass (New York: Routledge, 2013), 152.

<sup>357</sup> Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*, 227.

<sup>358</sup> Chandhoke, “Social Rights and the Paradox of Indian Democracy,” 40–41; David Kode and Mathew Jacob, *India: Democracy Threatened by Growing Attacks on Civil Society*, CIVICUS (2017), [http://www.civicus.org/images/India\\_Democracy\\_Threatened\\_Nov2017.pdf](http://www.civicus.org/images/India_Democracy_Threatened_Nov2017.pdf) (accessed 11 October 2023).

<sup>359</sup> Grahn, Lindberg, and Widmalm, “Autocratization in South Asia,” 6–7. An “episode of autocratisation” is a period “with a definitive start and end date during which substantial and sustained declines in democratic qualities take place” (ibid., 5.). It is of course questionable whether this is just an “episode,” given that Modi’s government at the time of writing does not have an end date.

<sup>360</sup> Chandhoke, “Social Rights and the Paradox of Indian Democracy,” 40.

<sup>361</sup> Narendra Modi, quoted in Scroll, “Indians talking about their rights while ignoring duties has kept country weak: Narendra Modi,” *Scroll*, 21 January 2022, <https://scroll.in/latest/1015556/indians-talking-about-their-rights-while-ignoring-duties-has-kept-country-weak-narendra-modi> (accessed 11 October 2023).



...rights-based approach to well-being, which had been emphasised by civil society activists during the period UPA [United Progressive Alliance, led by Congress] (...) was in power, has been replaced by the enactment of social policy 'from above' in line with East Asian countries, such as Singapore, that PM Modi admires.<sup>362</sup>

Similarly, Nilsen has argued that "the Modi regime has sought to reverse and dilute the rights-based legislation that was brought in by the [United Progressive Alliance]."<sup>363</sup> Autocratisation combined with neoliberalisation does not mean that the state only retreats,<sup>364</sup> but rather that it selectively expands – by increasing control of sectors such as the voluntary – and retreats – by handing out responsibility for welfare to private actors. Devin Joshi has characterised a "neo-authoritarian regime" as one that allows "some space for civil society associations to organize independently and occasionally critique the government but they also use an array of direct and indirect means to limit the political capacity of autonomous organizations," which include "going after foreign-funded non-government organizations."<sup>365</sup> This is a picture that fits India very well. In Modi's own words, "[n]on-state actors such as NGOs, and voluntary agencies and activists...are said to be watchdogs. But who will watch the watchdogs?"<sup>366</sup> Analysing the speech in which Modi uttered these words, Bornstein and Sharma write that Modi envisions a "'strong' government that is 'rightsized,' not downsized."<sup>367</sup> In other words, while the size of the Indian state in terms of public expenditures on social services actually has grown since the 1990s,<sup>368</sup> the state is simultaneously ensuring that

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<sup>362</sup> Chandhoke, "Social Rights and the Paradox of Indian Democracy," 53.

<sup>363</sup> Nilsen, "India's Turn to Rights-Based Legislation (2004-2014): A Critical Review of the Literature," 662.

<sup>364</sup> Narasappa, *Rule of Law in India: A Quest for Reason*, 61.

<sup>365</sup> Devin K. Joshi, "Neo-authoritarianism in India under Narendra Modi: Growing force or critical discourse?" in *Routledge Handbook of Autocratization in South Asia*, ed. Sten Widmalm (London; New York: Routledge, 2022), 25.

<sup>366</sup> Modi, quoted in Bornstein and Sharma, "The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India," 86.

<sup>367</sup> Ibid.

<sup>368</sup> Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*, 59.

its apparatus does not need to expand with each scheme: by increasingly framing its social programmes in terms of a “partnership,” state-funded programmes are handed to the voluntary sector for implementation.

The above paragraphs have served to qualify the kind of neoliberalism that is at play in India – namely one that interacts with the present government’s autocratising leadership. It is important to keep in mind that the social rights and child rights legislation that I examine below was *not* adopted under BJP rule, but in the period between 2004 and 2014. The government in power since 2014 thus represents a tendency of moving away from social rights legislation. The overall point I want to make here is that the global trend of privatising social services to NGOs always comes in specific national forms. In India’s case, this form is shaped by a history of state developmentalism, of autocratisation, and shrinking civic space.

#### 4.2.2. The rights ascendancy

The time from the 1990s onwards were not only a time of liberalisation, but also a time when India’s vast number of public social welfare programmes began to be legislated in terms of “social rights.”<sup>369</sup> Especially the early and mid-2000s saw a stream of new laws such as the Right to Information Act, the National Food Security Act, the Forest Rights Act, the Right to Education

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<sup>369</sup> This does not mean that India did not have social welfare programs before the 1990s. Rather, the point is that in the Nehruvian period, growth and industrialisation were given priority and rhetoric on welfare rather than rights was strong; and under Indira and Rajiv Gandhi, a range of anti-poverty programmes were launched, but their clientelistic and populist logic was far from a rights discourse (ibid., 58.). We should also keep in mind that the social rights legislation of the 1990s, 2000s and 2010s is an extension of the movements and new possibilities of social action litigation that emerged during the 1970s and 1980s, which demanded social rights along civil and political rights (ibid., 224; Shylashri Shankar, “Descriptive Overview of the Indian Constitution and the Supreme Court of India,” in *Transformative Constitutionalism. Comparing the apex courts of Brazil, India and South Africa*, ed. Upendra Baxi Oscar Vilhena, Frans Viljoen (Pretoria: Pretoria University Law Press, 2013), 120; Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 85.). For a history of social rights in India from the early twentieth century until the Modi government, see Chandhoke, “Social Rights and the Paradox of Indian Democracy.”

Act, and the Land Acquisition, Rehabilitation and Resettlement Act.<sup>370</sup> The reasons behind the rights ascendancy can be found both in the possibilities of the Constitution, in the Supreme Court's activist approach to interpreting it, in advocacy and public interest litigation from civil society groups, and in activities of the National Advisory Council, a government-instituted body that was instrumental in framing the rights-based laws. In the following overview of these four factors, it is not my aim to provide a comprehensive explanatory analysis of the rights ascendancy, but rather to highlight its core elements in order to provide a background to the specific child rights ascendancy that I discuss in 4.4.

#### 4.2.2.1. *Constitutional rights and duties*

The Indian Constitution's Part III outlines Fundamental Rights, most of which can be considered civil and political rights.<sup>371</sup> Social and economic goals, on the other hand, are not written in terms of "rights," but as "Directive Principles of State Policy" in Part IV. The main difference between Fundamental Rights and Directive Principles is that the former are directly enforceable in court, while the latter only need to be applied by the state when making laws.<sup>372</sup> This creates a division between two types of rights where Fundamental Rights (or civil and political rights) are justiciable, and socio-economic rights or "development" rights, are aspirational goals for the state. Even though the Directive Principles imply a "duty of the state" to apply them

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<sup>370</sup> Nilsen, "India's Turn to Rights-Based Legislation (2004-2014): A Critical Review of the Literature," 654; Sanjay Ruparelia, "India's New Rights Agenda: Genesis, Promises, Risks," *Pacific Affairs* 86, no. 3 (2013).

<sup>371</sup> These are: equality before the law; prohibition of discrimination on grounds of religion, race, caste, sex or place of birth; equality of opportunity in matters of public employment; freedom of speech, expression, assembly, association, movement, profession and religion; protection in respect of conviction for offences; protection of life and personal liberty; right to education; protection against exploitation; and protection of minorities (Government of India, *The Constitution of India* [as on May 2022], originally published 1950, <https://cdnbbsr.s3waas.gov.in/s380537a945c7aaa788ccfd1b99b5d8f/uploads/2023/05/2023050195.pdf> (accessed 12 October 2023), Part III.

<sup>372</sup> *The Constitution of India*, Art. 37; Chandhoke, "Social Rights and the Paradox of Indian Democracy," 44; Madhav Khosla, *The Indian Constitution* (New Delhi: Oxford University Press, 2012), 87.

in making laws,<sup>373</sup> “[t]he nomenclature—fundamental principles of social policy—made it clear that these were not intended to be *obligations* of the state to the citizen.”<sup>374</sup> With Directive Principles in the Constitution, we thus see the language of state duties without the language of rights.<sup>375</sup> Even though these principles are not framed in terms of rights, they put a primary role on the state for social and economic goals.<sup>376</sup>

#### 4.2.2.2. *The Supreme Court’s activist interpretation of the Constitution*

India’s Supreme Court is known for a practice of drawing upon the Directive Principles to interpret the meaning of Fundamental Rights, especially through a wide interpretation of Article 21 (the right to life), which includes the right to live with human dignity and thus also the rights to health, food, sleep, medical care, livelihood, water and a clean environment.<sup>377</sup> As such, the Supreme Court reads “new rights” into the right to life.<sup>378</sup> This practice has been argued to both expand the ambit of rights and reduce the dichotomy between Fundamental Rights and Directive Principles, also known as the Supreme Court’s “activism.”<sup>379</sup> As Judge Leila Seth writes, the judiciary has taken on the duty of “prodd[ing] a sluggish administration into doing its duty

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<sup>373</sup> Asha Bajpai, *Child Rights in India: Law, Policy, and Practice*, Second ed. (New Delhi: Oxford University Press, 2003), 6.

<sup>374</sup> Jayal, *Citizenship and its Discontents: An Indian History*, 150.

<sup>375</sup> There is a large body of literature on Directive Principles and Fundamental Rights that I do not have the space to get into here. For a particularly interesting analysis, see *ibid.*, chapter 4.

<sup>376</sup> Narasappa, *Rule of Law in India: A Quest for Reason*, xxiv; xxxiii.

<sup>377</sup> *Ibid.*, 83; 91.

<sup>378</sup> Arora, “State Violence, Coercion and Human Rights in India,” 317.

<sup>379</sup> Rau, quoted in Shankar, “Descriptive Overview of the Indian Constitution and the Supreme Court of India,” 111; Shylashri Shankar, “India’s judiciary: Imperium in imperio?” in *Routledge Handbook of South Asian Politics: India, Pakistan, Bangladesh, Sri Lanka, and Nepal*, ed. Paul R. Brass (New York: Routledge, 2013), 171; Henry J. Steiner, Philip Alston, and Ryan Goodman, *International Human Rights in Context* (Oxford; New York: Oxford University Press, 2008), 322. Harish Narasappa has interestingly noted that the Supreme Court has been activist when it comes to economic and social rights, but not to civil and political rights, shown by the example of freedom of speech (Narasappa, *Rule of Law in India: A Quest for Reason*, 87).

in terms of implementation of laws.”<sup>380</sup> Much of this rights expansion have come through Public Interest Litigation (PIL), a mode of appeal where any member of the public can appeal directly to the Supreme Court on behalf of other persons or class of persons, who due to social or economic disadvantage are unable to approach the Court themselves.<sup>381</sup> For instance, the right to food campaign that led to the National Food Security Act, came through a PIL,<sup>382</sup> and the right to education was also spurred by several key court cases.<sup>383</sup> Sanjay Ruparelia has argued that the Supreme Court was an important catalyst for the new rights agenda in India, and that NGOs served as “midwives to judicial activism.”<sup>384</sup> However, the effect of these Supreme Court judgements has been questioned by some scholars, who argue that the court simply affirms rights but that implementation is still a glaring problem.<sup>385</sup>

#### 4.2.2.3. *Civil society claiming rights*

As with the global rights ascendancy, its Indian avatar is also often attributed to the efforts of “civil society.”<sup>386</sup> Grassroots citizens movements have had “substantial influence over national policy making resulting in the successful passage of legal entitlements to welfare.”<sup>387</sup> Jayal has pointed out that it was a particular strand of civil society that has advocated through a rights vocabulary in India, namely that which is “not political in a partisan sense, but deeply

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<sup>380</sup> Seth, *Talking of Justice*.

<sup>381</sup> Chandhoke, “Social Rights and the Paradox of Indian Democracy,” 50; Shankar, “Descriptive Overview of the Indian Constitution and the Supreme Court of India,” 126.

<sup>382</sup> Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*, 72.

<sup>383</sup> Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*, 113.

<sup>384</sup> Ruparelia, “India’s New Rights Agenda: Genesis, Promises, Risks,” 573-74.

<sup>385</sup> Sarada Balagopalan, “Why historicize rights-subjectivities? Children’s rights, compulsory schooling, and the deregulation of child labor in India,” *Childhood* 26, no. 3 (2019); Mayur Suresh and Siddharth Narrain, *The Shifting Scales of Justice: The Supreme Court in Neo-liberal India* (New Delhi: Orient Blackswan, 2014).

<sup>386</sup> See for instance Ruparelia, “India’s New Rights Agenda: Genesis, Promises, Risks,” 574.

<sup>387</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, 102-03.

political in its core radical preoccupation with seeking to mitigate the worst exclusionary impacts of neoliberal economic development.”<sup>388</sup> Jayal argues that,

[s]trangely enough, while these citizens dispute the neoliberal policy orientation of the state, the state is infinitely more receptive to this form of civil society than the other,<sup>389</sup> possibly because demands for accountability cut closer to the bone for the political class than do abstract rights to food or work.<sup>390</sup>

Similarly, Nilsen has argued that even the neoliberal Indian state is strangely receptive to demands of rights by civil society.<sup>391</sup> But one of the reasons for this receptiveness is that the “state” in some cases is also comprised of people who identify with being civil society activists. That was at least the case with the National Advisory Council which framed many rights-based laws.

#### 4.2.2.4. *The National Advisory Council*

In his review of rights-based legislation in India, Nilsen has defined the period of 2004-14 as the key period for the making “laws that enshrined civil liberties and socio-economic entitlements as legally enforceable rights.”<sup>392</sup> This was also the period when the National Advisory Council (NAC) was set up by Sonia Gandhi to council Prime Minister Manmohan Singh.<sup>393</sup> The NAC’s composition of experts from the development sector is indicative of the overlap between state and civil society. Amongst others, members were former civil servant-turned activists Aruna Roy and Harsh Mander, and welfare economist and activist Jean Drèze. Through the NAC, the Right to Education

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<sup>388</sup> Jayal, *Citizenship and its Discontents: An Indian History*, 196.

<sup>389</sup> The other strand is what Jayal calls the young professional middle class who reaped the benefits of liberalisation and who agitated and held “candlelight vigils to protest a series of high-profile murders in which the victims and their families were denied justice because of the political or financial clout of the killers” (ibid., 195-96).

<sup>390</sup> Ibid., 196.

<sup>391</sup> Nilsen, “India’s Turn to Rights-Based Legislation (2004-2014): A Critical Review of the Literature.” It is questionable, however, whether the autocratising state is just as receptive.

<sup>392</sup> Ibid., 653.

<sup>393</sup> Ruparelia, “India’s New Rights Agenda: Genesis, Promises, Risks,” 572.

Act, the Right to Information Act, the National Rural Employment Guarantee Act, and a number of other rights-based laws were developed. Both scholars and activists attribute a large part of the rights ascendancy, also called a “social revolution,” to the NAC.<sup>394</sup> The NAC was dissolved in 2014 when the BJP-led government came to power.

In sum, the combination of these four factors – the possibilities of the Constitution, the Supreme Court’s activist approach to interpreting it, the advocacy and public interest litigation from civil society groups, and the setting up of the National Advisory Council – all contributed to laying the foundation for rights-based legislation. But rights-based legislation, especially in the social welfare field, also requires a state that can uphold the adopted rights, and, as we saw above, the Indian state has retreated when it comes to public provisioning. So how can we explain this paradoxical nature of the simultaneous rise of neoliberalism and rights-based legislation, and the following autocratisation?

#### 4.2.3. An expanding and retreating state

Two salient answers to this question have to do with, first, the very nature of the Indian state as fragmented and janus-faced and, second, with the fact that many of the rights are only adopted and not implemented, suggesting that the rights regime is not as strong as it looks “on paper.”<sup>395</sup>

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<sup>394</sup> Chandhoke, “Social Rights and the Paradox of Indian Democracy,” 52. See also S K Das, *India’s Rights Revolution: Has it worked for the poor?* (New Delhi: Oxford University Press, 2013).

<sup>395</sup> These should be seen as complementary to other explanations, such as that pointed out by Nilsen that rights-based legislation is a response to the socioeconomic inequality that neoliberalism brought about. Nilsen argues that the UPA “developed a legal regime that was intended to contain opposition and construct the basis for subaltern consent to the neoliberal accumulation strategy that was at the core of its economic policy” (Nilsen, “India’s Turn to Rights-Based Legislation (2004-2014): A Critical Review of the Literature,” 661).

#### 4.2.3.1. *A janus-faced state?*

It is recognised by many scholars that the Indian state is such a vast bureaucratic machine that it often acts in opposing directions. Shirin Rai talks of different “fractions of the state.”<sup>396</sup> The Indian state has famously been called “flailing,”<sup>397</sup> or simultaneously failing and succeeding.<sup>398</sup> In the same vein, Julie Fisher suggests that some departments and agencies of the Indian government “are cooperating actively with NGOs” while others deny NGOs’ registration for foreign funding.<sup>399</sup> Or as Chandhoke writes:

The Indian state cannot be defined in one way and one alone. It is democratic and undemocratic, enabling and inhibiting, empowering and coercive, an upholder of rights and a major violator of rights, a guarantor of social inclusion and a creator of new forms of marginalization through dispossession, legitimate for some and illegitimate for many.<sup>400</sup>

Chandhoke thus characterises the Indian state in itself as a “paradox.”<sup>401</sup> We therefore need further qualifiers than “strong” (living up to a certain ideal state) and “weak” (measured against this ideal) to explain the simultaneous presence of rights-based activism and laws on the one hand, and neoliberal privatisation on the other.<sup>402</sup> The Indian state resists such simple labels. Shalini Randeria uses the term “cunning states” when she refers to a group of

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<sup>396</sup> Rai, “From the Nation-State to Global Governance: A Gendered Analysis,” 161.

<sup>397</sup> Pritchett, Lant, “Is India a Flailing State? Detours on the Four Lane Highway to Modernization,” *Harvard Kennedy School Research Working Paper Series RWP09-013* (2009).

<sup>398</sup> Kapur, Devesh, “Why Does the Indian State Both Fail and Succeed?” *The Journal of Economic Perspectives* 34, no. 1 (2020).

<sup>399</sup> Fisher, *Nongovernments: NGOs and the Political Development of the Third World*, 41.

<sup>400</sup> Chandhoke, “Social Rights and the Paradox of Indian Democracy,” 38.

<sup>401</sup> Ibid.

<sup>402</sup> Randeria, “The State of Globalization: Legal Plurality, Overlapping Sovereignties and Ambiguous Alliances between Civil Society and the Cunning State in India,” 3. A similar characterisations of the Indian state is to call it “weak-strong” (Rudolph & Rudolph, cited in Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*, 217).



the “stronger among subordinate states in the international system.”<sup>403</sup> “Cunning” states, in her terminology, are “selectively strong in advancing the interests of the privileged, but strategically weak in fulfilling even its constitutional duties towards the poor.”<sup>404</sup> These “cunning” states are not lacking technical expertise, but rather political will.<sup>405</sup> They are not *unable* to discharge their obligations of justice, but *unwilling*,<sup>406</sup> or in other words, they manage “to have conveniently few duties towards their citizens.”<sup>407</sup> “Cunning” states “deny power only to deploy it in order to evade responsibility”<sup>408</sup> and, in this way, the political elite can lower public expectations.<sup>409</sup> Randeria argues that India is such a “cunning” state, and this is linked to the fact that the state was never necessarily the “unitary source of normative order.”<sup>410</sup> But still, its laws and policies are able to “transpos[e] neoliberal agendas to the national and local levels.”<sup>411</sup> Randeria calls this emerging landscape an “eclectic legal pluralism” where state and non-state actors are woven together.<sup>412</sup> In this landscape, she mentions NGO-government partnerships as an example of a “cunning” state practice.<sup>413</sup> The state is at the same time inadequate and indispensable. Adding in the autocratisation tendency, the state might be said to have become “an authoritative yet leaner entity,” as Sharma writes.<sup>414</sup> But still, “the postcolonial

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<sup>403</sup> Randeria, “The State of Globalization: Legal Plurality, Overlapping Sovereignities and Ambiguous Alliances between Civil Society and the Cunning State in India,” 3.

<sup>404</sup> *Ibid.*, 8.

<sup>405</sup> *Ibid.*

<sup>406</sup> *Ibid.*, 6.

<sup>407</sup> *Ibid.*, 28.

<sup>408</sup> *Ibid.*, 6.

<sup>409</sup> *Ibid.*, 7.

<sup>410</sup> *Ibid.*, 4; 25.

<sup>411</sup> *Ibid.*, 2.

<sup>412</sup> *Ibid.*, 25.

<sup>413</sup> *Ibid.*, 8.

<sup>414</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 78.

Indian state cannot completely privatize governmental functions such as development” because they “are an inseparable part of its identity.”<sup>415</sup>

Another important aspect of the Indian state is how differently it materialises itself in the vast country that India is. People “meet” the state in many forms – as bureaucrats,<sup>416</sup> as local institutions to address claim-making to,<sup>417</sup> as endless “paper” without tangible effects.<sup>418</sup> Since this study is focused on the different levels of an NGO-state partnership, we will in the following chapters see how the state that NGO workers “meet” materialises in different ways: the national government can be an actor to critique and lobby with, while a district-level Child Protection Officer can be someone who provides allyship and legitimacy as a “partner” against child marriage. The state that NGO workers meet can thus, depending on the situation, be seen as neoliberal and absent, as overly bureaucratic, or as an “allied stakeholder” in achieving common social objectives. All these characterisations of the Indian state as janus-faced and fragmented stand in sharp contrast to international law’s image of a stable and robust state that can “implement rights” or “partner with civil society.”

#### 4.2.3.2. *Unimplementable rights?*

Another explanation for the simultaneous ascendancies of neoliberalism and rights is that the acknowledged rights foremost exist “on paper,” and therefore do not actually create a stronger or “bigger” state. As we have seen, civil society and the Supreme Court have enabled each other in the expansion of social rights.<sup>419</sup> But however much civil society and the judiciary ensure the adoption of laws or enforcement in specific cases, the systematic implementation of the rights-based laws remain a task for the executive and the public administration. New rights presume “that state institutions and social actors possess adequate capacity in terms of personnel, financing and

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<sup>415</sup> Ibid.

<sup>416</sup> Corbridge et al., *Seeing the State: Governance and Governmentality in India*.

<sup>417</sup> Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*.

<sup>418</sup> Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*.

<sup>419</sup> Chandhoke, “Social Rights and the Paradox of Indian Democracy,” 39-40.

coordination, all of which may be lacking in the first place.”<sup>420</sup> Implementation requires a budget, and, for instance, the child rights budget in India has decreased steadily over the last couple of years, as I return to later on in this chapter.<sup>421</sup> Very often, Narasappa argues, civil society has to approach the judiciary for the implementation of a Public Interest Litigation order in a case that had been brought by civil society groups in the first place.<sup>422</sup> This leads to the question of whether there is a fundamental inconsistency in advocating for rights-based laws from a state that does not maintain the structures and institutions for securing these rights.<sup>423</sup> Balagopalan exemplifies this inconsistency with a father of school-aged children, who is frustrated

...with a system that simultaneously proclaims a legal commitment to children’s rights in the form of free and compulsory education and refuses to build the real sites, institutions, and practices only through which such rights can be materialized.<sup>424</sup>

But despite this inconsistency, activists who acutely critique the dismantling of the Indian welfare state by way of neoliberal policies still mobilise people to advocate for rights-based laws to be instituted by the very same state.<sup>425</sup> This suggests a remaining belief in the capacity of the Indian state to, on some level, enforce these laws.

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<sup>420</sup> Ruparelia, “India’s New Rights Agenda: Genesis, Promises, Risks,” 587.

<sup>421</sup> Firstpost, “Union Budget 2021: Childs rights budget lowest its ever been in 10 years leaving NGOs disappointed,” *Firstpost*, 2 February 2021, <https://www.firstpost.com/india/union-budget-2021-childs-rights-budget-lowest-its-ever-been-in-10-years-leaving-ngos-disappointed-9263381.html> (accessed 11 October 2023).

<sup>422</sup> Narasappa, *Rule of Law in India: A Quest for Reason*, 171.

<sup>423</sup> DownToEarth, “Rise of third sector,” *DownToEarth*, 31 July 2011, <https://www.downtoearth.org.in/coverage/rise-of-third-sector-33712> (accessed 11 October 2023).

<sup>424</sup> Balagopalan, “Why historicize rights-subjectivities? Children’s rights, compulsory schooling, and the deregulation of child labor in India,” 307.

<sup>425</sup> Again we can highlight characters such as Aruna Roy. See for instance Jipson John and Jitheesh P.M., “‘Democracy is being hollowed out’. Interview with Aruna Roy,” *FRONTLINE* 36, 2 (2019).

That belief can be explained by Gabrielle Kruks-Wisner's argument that claim-making (that is, citizens claiming social rights from the state) is most likely "where the state is neither absent or 'failed,' but nor is (...) uniformly or readily accessible."<sup>426</sup> In her framework, India is a type of state where claim-making is prevalent, because there is a *certain degree* of state resources, combined with experiences of *some* welfare benefits being received (or of having seen other people receive benefits). According to Kruks-Wisner, it is the frustration in citizens' attempts to access resources that they can see others around them having, coupled with a sense of entitlement and of personal and political efficacy, that provoke action.<sup>427</sup> In this type of states, "*de jure* commitments to social welfare delivery are significant" (which we can see in rights-based laws and schemes), "but (...) citizens' access to those resources is variable and unequal."<sup>428</sup> Kruks-Wisner has observed how "[r]ural citizens' experience of the Indian welfare state is (...) an uneven one: the state is both present and absent, visible and elusive, and critical and capricious in the lives and livelihoods of the poor."<sup>429</sup> Her arguments resonate with Ruparelia's claim that part of the explanation for the rights ascendancy in the 2000s is to be found in the uneven development from the 1980s onwards.<sup>430</sup> Akshay Mangla has similarly demonstrated the unevenness with which social services are implemented in India.<sup>431</sup> My study does not analyse individual claim-making, but I argue that NGO-mediated claim-making and the type of elite activism and advocacy that leads to the adoption of rights-based laws are also most likely in contexts where there *are* resources, but where these are unequally and unpredictably delivered.

In sum, the Indian state is at the same time expanding in the area of adopting rights-based laws, programmes and schemes (pushed by civil society advocacy and an activist judiciary) and retreating by giving the responsibility for some

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<sup>426</sup> Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*, 30.

<sup>427</sup> *Ibid.*, 53.

<sup>428</sup> *Ibid.*, 217.

<sup>429</sup> *Ibid.*, 63.

<sup>430</sup> Ruparelia, "India's New Rights Agenda: Genesis, Promises, Risks."

<sup>431</sup> Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*.

of these schemes to NGOs and by framing the schemes as “multi-stakeholder partnerships.” The Indian state emerges as expanding, omnipresent and indispensable on the one side, and retreating, absent and inadequate on the other. Just as such a state is conducive for citizens demanding rights (because it spurs a sense of comparative grievance: “Why am I being neglected while others are not?”<sup>432</sup>), it is also conducive to outsourcing these rights-based services to NGOs, because the market-oriented state “cunningly”<sup>433</sup> disperses the implementation and responsibility to non-state actors through public-private partnerships. As Sharma has pointed out, India’s vast semi-governmental welfare and rights apparatus is perhaps exactly what “allows for a reconciliation between the developmentalist and neoliberalizing facets of the Indian state.”<sup>434</sup>

I now turn to an empirical examination of the Indian state’s writing practices that exemplify this janus-faced and fragmented state. I focus on two fields of policy and law: the NGO sector and children’s rights. The rights ascendancy has been studied thoroughly by a number of scholars. Much work has been done on the right to work and the National Rural Employment Guarantee

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<sup>432</sup> Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*, 37.

<sup>433</sup> Randeria, “The State of Globalization: Legal Plurality, Overlapping Sovereignities and Ambiguous Alliances between Civil Society and the Cunning State in India.”

<sup>434</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 78.

Act,<sup>435</sup> the right to information,<sup>436</sup> and the right to food.<sup>437</sup> When it comes to children's rights, there has been substantial work on the right to education,<sup>438</sup> but the entire body of new child rights acts have not been studied in detail as part of the rights ascendancy, and that is what I do in 4.4. First, I turn to the neoliberal tendency and its discursive construction of ideal NGO roles in India.

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<sup>435</sup> Kaustav Banerjee and Partha Saha, "The NREGA, the Maoists and the Developmental Woes of the Indian State," *ibid.* 45, no. 28 (2010); Jean Dreze, "Employment Guarantee and the Right to Work," in *The Oxford Companion to Politics in India*, ed. Niraja Gopal Jayal and Pratap Bhanu Mehta (New Delhi: Oxford University Press, 2010); Kruks-Wisner, *Claiming the State: Active Citizenship and Social Welfare in Rural India*; Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*; Reetika Khera, *The Battle for Employment Guarantee* (New Delhi: Oxford University Press, 2011); Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*; Mihir Shah, "Employment Guarantee, Civil Society and Indian Democracy," *Economic and Political Weekly* 42, no. 45/46 (2007).

<sup>436</sup> Himanshu Jha, *Capturing Institutional Change: The Case of the Right to Information Act in India* (New Delhi: Oxford University Press, 2020); Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*; Aradhana Sharma, "State Transparency After the Neoliberal Turn: The Politics, Limits, and Paradoxes of India's Right to Information Law," *PoLAR: Political and Legal Anthropology Review* 36, no. 2 (2013).

<sup>437</sup> Lauren Birchfield and Jessica Corsi, "Between Starvation and Globalization: Realizing the Right to Food in India," *Michigan Journal of International Law* 31 (2010); Jean Drèze, "Democracy and the Right to Food," *Economic and Political Weekly* 39, no. 17 (2004); Jayal, *Citizenship and its Discontents: An Indian History*; Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*.

<sup>438</sup> Jayal, *Citizenship and its Discontents: An Indian History*; Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*; N. Thapliyal, "Unacknowledged Rights and Unmet Obligations: An Analysis of the 2009 Indian Right to Education Act," *Asia-Pacific Journal on Human Rights and the Law* 13 (2012).

### 4.3. The neoliberal and autocratising tendency: framing ideal NGOs as non-political

In this section, I show how neoliberalisation and autocratisation have influenced the NGO sector in India in two primary ways. First, the regulation of the sector has been tightened by the state (4.3.1.). Second, the implementation of rights-based services is increasingly being outsourced to NGOs (4.3.2.). Together, these factors underpin the Indian state's framing of the ideal NGO as a non-political service implementer.

#### 4.3.1. Tightening regulation of the NGO sector

India is part of a global trend of shrinking space for civil society. In order to study the Indian state's tightening regulation of the NGO sector, I will introduce how NGOs are legally regulated in India and then focus on one of the main tools of control, namely the legislation on foreign funding.

The first type of “control” that the state exercises over NGOs is through registering them. This is not in itself a tool for tightening the NGO sector – in fact, the ability to legally open an organisation is part of the constitutional right to assembly. But it is still part of making the “N” in “NGO” questionable, as Sharma has argued.<sup>439</sup> In India, NGOs can register either under the Societies Registration Act, 1860,<sup>440</sup> The Indian Trusts Act, 1882,<sup>441</sup> or as a non-profit company under the Indian Companies Act, 2013.<sup>442</sup> Under the Societies Registration Act, NGOs are defined as organisations “doing charitable, literary, artistic, scientific, or educational work,” a list from which

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<sup>439</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 64-65.

<sup>440</sup> Government of India, Societies Registration Act, 1860 (New Delhi 1860), [https://www.mca.gov.in/Ministry/actsbills/pdf/Societies\\_Registration\\_Act\\_1860.pdf](https://www.mca.gov.in/Ministry/actsbills/pdf/Societies_Registration_Act_1860.pdf) (accessed 12 October 2023). There are also equivalent but state-specific acts.

<sup>441</sup> Government of India, The Indian Trusts Act, 1882 (New Delhi 1882), <https://www.indiacode.nic.in/bitstream/123456789/2327/3/A1882-02.pdf> (accessed 12 October 2023).

<sup>442</sup> Government of India, The Companies Act, 2013 (New Delhi 2013), <https://www.mca.gov.in/Ministry/pdf/CompaniesAct2013.pdf> (accessed 12 October 2023).

political activity is “notably absent.”<sup>443</sup> In the Trusts Act, a trust may be created for “any lawful purpose,” but it is considered “unlawful” if the “Court regards it as immoral or opposed to public policy.”<sup>444</sup> Under the Companies Act, a company is considered charitable if it “has in its objects the promotion of commerce, art, science, sports, education, research, social welfare, religion, charity, protection of environment or any such other object” and operates on a not-for-profit basis.<sup>445</sup> In all three laws, we see a framing of NGOs as non-political organisations working with issues that the state deems to be “charitable.” In terms of activities and funding sources, there are no large differences between the three types of registration (only smaller ones concerning provisions such as number of members, internal management, administrative renewal and internal procedures<sup>446</sup>). To enjoy tax-exempt status for grants, NGOs must also register under the central Income Tax Act, 1961.<sup>447</sup> If an NGO wants to be a government sub-contractor, it is also mandatory to register in the NGO Darpan, an online NGO register.<sup>448</sup> Finally, the Central Social Welfare Board (CSWB) functions as an “interface”

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<sup>443</sup> Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” 88.

<sup>444</sup> Government of India, The Indian Trusts Act, 1882, Section 4.

<sup>445</sup> Government of India, The Companies Act, 2013, Section 8.

<sup>446</sup> NGOs in India, “Difference in Company, Society and Trust,” 2022, <https://ngosindia.com/ngo-registration/difference-between-trust-society-and-company/> (accessed 11 October 2023); Centre for Social Impact and Philanthropy, *A Study on the Legal, Regulatory, and Grants-in-Aid Systems for India’s Voluntary Sector*, Ashoka University (Ashoka University, 2020), 42–43; Interview no. 9.

<sup>447</sup> International Center for Not-for-profit Law, “Civic Freedom Monitor: India,” 2019, <https://www.icnl.org/resources/civic-freedom-monitor/india> (accessed 11 October 2023).

<sup>448</sup> Government of India, “NGO Darpan,” n.d., <https://ngodarpan.gov.in/> (accessed 11 October 2023).



between the government and the voluntary sector by monitoring the thousands of voluntary organisations that implement state programmes.<sup>449</sup>

If an organisation wants to be able to receive foreign funding, it needs to register under the Foreign Contributions (Regulations) Act (FCRA). Since its adoption during the state of emergency in 1976, the FCRA has been heavily criticised for repressing dissent by NGOs, especially those working with human rights, with the claim that they are “antinational.”<sup>450</sup> The FCRA was amended in 2010 and 2020 with an increasing number of restrictions applying to NGOs. For instance, it is now compulsory for NGOs with foreign grants to re-register every five years;<sup>451</sup> foreign-funded NGOs are prohibited to transfer this funding to other organisations; they are required to open an account with the State Bank of India for their funding;<sup>452</sup> and importantly,

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<sup>449</sup> Government of India, Annual Report 2016-2017 (of Ministry of Women and Child Development), 131 (2017), [https://wcd.nic.in/sites/default/files/FINAL%20WCD\\_AR\\_English%202016-17.pdf](https://wcd.nic.in/sites/default/files/FINAL%20WCD_AR_English%202016-17.pdf) (accessed 12 October 2023).. Some schemes are managed through the CSWB, others through Ministries (Centre for Social Impact and Philanthropy, *A Study on the Legal, Regulatory, and Grants-in-Aid Systems for India's Voluntary Sector*, 44-45.). The Central Social Welfare Board (CSWB) was created in 1953 to promote and fund voluntary organisations. It was through the CSWB that voluntary organisations for the first time could access state funds and implement state projects (Sen, “Non-profit organisations in India: historical development and common patterns,” 181).

<sup>450</sup> Sen, “Some Aspects of State-NGO Relationships in India in the Post-Independence Era,” 340; Kode and Jacob, *India: Democracy Threatened by Growing Attacks on Civil Society*.

<sup>451</sup> Kode and Jacob, *India: Democracy Threatened by Growing Attacks on Civil Society*, 2-3; Interview no. 22.

<sup>452</sup> See Amitabh Behar, “Behind the new rules for NGOs to get foreign funds, a clear political message – fall in line,” *Scroll*, 24 September 2020, <https://scroll.in/article/973909/behind-the-new-rules-for-ngos-to-get-foreign-funds-a-clear-political-message-fall-in-line> (accessed 11 October 2023); Suvojit Chattopadhyay, “The Proposed FCRA Amendment Will Deal Another Blow to India's Non-Profit Sector,” *The Wire*, 21 September 2020, <https://thewire.in/government/foreign-contribution-regulation-amendment-bill-2020> (accessed 11 October 2023); Government of India, The Foreign Contribution (Regulation) Amendment Act, 2020, (New Delhi 2020), [https://fcraonline.nic.in/home/PDF\\_Doc/fc\\_amend\\_07102020\\_1.pdf](https://fcraonline.nic.in/home/PDF_Doc/fc_amend_07102020_1.pdf) (accessed 12 October 2023).

no organisation “of a political nature” is allowed to receive foreign funding.<sup>453</sup> The rules that specify the act define organisations of a political nature as including “any voluntary action group with objectives of a political nature,” organisations “having avowed political objectives in its Memorandum of Association or by-laws” and “any organisation (...) which habitually engages itself in or employs common methods of political action like “*bandh*” or “*hartal*,” “*rasta roko*” [all forms of strike] (...) in support of public causes.”<sup>454</sup> In contrast to the registration acts where political purpose was simply omitted, the FCRA explicitly disqualifies NGOs with a political purpose. Some of these changes are so new that their consequences are not yet clear, but they are a matter of concern for international watchdog organisations<sup>455</sup> and scholars.<sup>456</sup> Many NGOs have experienced crackdowns, such as the freezing of bank accounts under the claim that they did not live up to new FCRA rules. This applies to both the Indian branches of large international NGOs, such as Amnesty and Greenpeace,<sup>457</sup> and small NGOs.<sup>458</sup>

It should be noted that it is common for democratic states to have some restrictions regarding to what extent NGOs can be “political.” The claimed state rationale would be that political parties should not be able to operate with the benefits that NGOs do. However, it is not so much the formulations in the Indian laws that are restrictive, but rather the way that they are being used. Furthermore, restrictions on foreign funding are especially problematic when combined with other restrictions, such as reducing tax exemptions and changing Corporate Social Responsibility (CSR) legislation. If this is the case,

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<sup>453</sup> Government of India, The Foreign Contribution (Regulation) Act, 2010, art. 3(f) (New Delhi 2010), [https://fcraonline.nic.in/home/PDF\\_Doc/FC-RegulationAct-2010-C.pdf](https://fcraonline.nic.in/home/PDF_Doc/FC-RegulationAct-2010-C.pdf) (accessed 12 October 2023).

<sup>454</sup> Government of India, The Foreign Contribution (Regulation) Rules, 2011, Art. 3 (New Delhi 2011), <https://www.fcra.co.in/form/FC-rules2011.pdf> (accessed 12 October 2023)..

<sup>455</sup> International Center for Not-for-profit Law, “Civic Freedom Monitor: India,” Kode and Jacob, *India: Democracy Threatened by Growing Attacks on Civil Society*.

<sup>456</sup> Banerjee, Soumi, “Performing Agency in Shrinking Spaces: Acting Beyond the Resilience-Resistance Binary,” *Social Inclusion* 11, no. 2 (2023).

<sup>457</sup> Ibid.

<sup>458</sup> In Chapter 6, I give an account of how FCRA cancellations affected a small child rights NGO in Tamil Nadu.

as in India, NGOs are arguably being silenced from all sides, leading to a chilling effect on what NGOs dare to work with.<sup>459</sup> But if the Indian state tightens its grip over the “political” part of the NGO sector, it simultaneously opens up space for those NGOs that are deemed to be “non-political” and thus good “partners” for implementing the state’s welfare programmes – this is the next characterisation of neoliberalisation’s influence on Indian NGOs that I will discuss.

#### 4.3.2. Outsourcing service implementation to NGOs

The Indian state also exercises control over NGOs by being in charge of “grants-in-aid,” that is, when a state body makes “payments in the nature of assistance, donations or contributions” to NGOs.<sup>460</sup> In this section, I examine how the Indian state shapes this outsourcing practice through a discourse of “partnership” between the state and the voluntary sector. The partnership is justified in terms of NGOs’ local expertise and supplementarity to the state, which construes NGOs as “moral” in addition to non-political.

If we look comparatively at India’s 7<sup>th</sup> to 12<sup>th</sup> Five Year Plans,<sup>461</sup> the number of references to NGOs as service providers increases, and the language

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<sup>459</sup> Interview no. 22. Similar observations are made in Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” 84.

<sup>460</sup> Centre for Social Impact and Philanthropy, *A Study on the Legal, Regulatory, and Grants-in-Aid Systems for India’s Voluntary Sector*, 27.

<sup>461</sup> Five Year Plans were written by the Planning Commission, the body that directed India’s economy from 1947 to 2014. It was chaired by the Prime Minister and consisted of Cabinet Ministers and experts, primarily economists. Although the Planning Commission was not a constitutional set-up, it became the most powerful institution of India’s developmental state, to which states submitted expenditure budgets and the commission coordinated and decided on India’s economy (Rudolph and Rudolph, “The old and the new federalism in independent India,” 151).

employed to refer to this practice evolves.<sup>462</sup> In the 7<sup>th</sup> Five Year Plan (1985-1990), NGOs are recognised as service deliverers and development actors that should receive funds.<sup>463</sup> The 8<sup>th</sup> Five Year Plan (1992-1997) called for improving service delivery systems “by using the vast potential of the voluntary sector.”<sup>464</sup> The 10<sup>th</sup> Five Year Plan (2002-2007) is rife with references to NGOs as service providers, as it added a part on “Support to NGOs” under most sub-headings in the theme of the social sector.<sup>465</sup> It highlights a “stronger partnership with non-government organisations (NGOs) and voluntary organisations”<sup>466</sup> as an achievement, and presents “low level” of NGO involvement as a problem.<sup>467</sup> The 11<sup>th</sup> Five Year Plan (2007-2012) continues in the same vein, stating for instance that “[t]he Central Social Welfare Board (CSWB) will continue financing NGOs for [the]

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<sup>462</sup> Again, we should not overestimate the neoliberal shift in the 1990s. Already the fifth Five Year Plan (1969-74) emphasised that voluntary organisations “play an important role in extending welfare activities” and that therefore “assistance will be given to them” for both service provision, awareness activities (then called “publicity and propaganda”), as well as education and trainings (Planning Commission, quoted in Stewart Allen, *An ethnography of NGO practice in India: Utopias of development* (Manchester: Manchester University Press, 2018), 29). Sharma also writes that already in the mid-1980s, Congress began making funding available to NGOs that were doing “non-political work” (Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 85).

<sup>463</sup> Allen, *An ethnography of NGO practice in India: Utopias of development*, 35; Chandhoke, “Civil Society in India,” 174.

<sup>464</sup> Government of India, 8th Five Year Plan (Vol-1), 1.4.44 (New Delhi 1992).

<sup>465</sup> Among many examples is the reporting of how Primary Health Care Centres (PHCs) in some cases have been “handed over to NGOs” (Government of India, 10th Five Year Plan (Vol-2), 2.8.24 (New Delhi 2002)). Other examples of NGO involvement in the implementation of child rights is the Mid-day Meal Scheme (ibid., 2.2.49.), secondary schools (ibid., 2.3.8.), literacy campaigns (ibid., 2.6.2.; 2.6.4.) and awareness raising (ibid., 2.10.121).

<sup>466</sup> Ibid., 2.2.13.

<sup>467</sup> Ibid., 1.64.

implementation of various women and child-related schemes.”<sup>468</sup> In the 12<sup>th</sup> Five Year Plan (2012-2017), we see the Planning Commission asking for expertise by NGOs when it specifically comes to implementing *rights*. For instance, in the implementation of the Right to Education Act, the plan sees NGOs and private entities as “natural partners.”<sup>469</sup> It also called for a need to recognise the “legitimate role” of NGOs in expanding primary education.<sup>470</sup> The Planning Commission at the time admitted that the public sector is “weak” in some areas. But instead of providing for its strengthening, the Commission highlighted an “urgent need to increase the involvement of CSO [civil society organisations], VO [voluntary organisations], and NGOs.”<sup>471</sup> In sum, all references to NGOs and the voluntary sector in the Five Year Plans are about how they can help the state to provide social services.

The Planning Commission’s justification for involving voluntary organisations as entities that the government should share responsibility with is that these organisations are “effective non-political link[s] between the people and the Government.”<sup>472</sup> It promotes a positive view on the voluntary sector with terms such as “people’s initiative and participation,”<sup>473</sup> “the community” or “decentralizing governance.”<sup>474</sup> The voluntary sector is in the National Policy on the Voluntary Sector seen as representing the “expertise” of someone who “understand[s] (...) the local opportunities and constraints and perhaps most importantly, [has] the capacity to conduct a meaningful

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<sup>468</sup> Government of India, 11th Five Year Plan (Vol-2), 6.86 (New Delhi 2007). In this plan, there are numerous other examples of NGO involvement in rights implementation. We find these examples in sections about education (ibid., 1.2.34), rag pickers and recycling (ibid., 5.79) and Public-Private Partnerships (ibid., Box 3.1.10).

<sup>469</sup> Government of India, 12th Five Year Plan (Vol-3), 21.60 (New Delhi 2012).

<sup>470</sup> Ibid., 21.73.

<sup>471</sup> Government of India, 11th Five Year Plan (Vol-2), 3.1.154.

<sup>472</sup> Government of India, National Policy on the Voluntary Sector, 1.2 (New Delhi 2007), <https://ngosindia.com/documents/government-policy-on-voluntary-sector.pdf> (accessed 12 October 2023). Similar justifications are commonly quoted among scholars (see e.g. Rajni Kothari, “NGOs, the State and World Capitalism,” *Economic and Political Weekly* 21, no. 50 (1986): 2180).

<sup>473</sup> Government of India, 8th Five Year Plan (Vol-1), 1.4.44.

<sup>474</sup> Government of India, 11th Five Year Plan (Vol-2), 3.1.205.

dialogue with communities, particularly those that are disadvantaged.”<sup>475</sup> Similarly, as stated in the 10<sup>th</sup> Five Year Plan,

NGOs have an inherent advantage in reaching the poor due to their proximity, the trust they generate by working in the area, their commitment, flexibility in approach, responsiveness and cost effectiveness. They have played a dynamic role as social animators and organisers in rural areas.<sup>476</sup>

The state’s Planning Commission here discursively constructs an image of NGOs as first and foremost politically neutral representatives of a local community, which is a common characterisation of NGOs’ advantages over state bureaucracies.<sup>477</sup> This can be characterised as an appeal to what Tanya Jakimow has called NGOs’ “grassroots cultural capital”<sup>478</sup> and Randeria their “social legitimacy.”<sup>479</sup> The reference to NGOs as “social animators and organisers” is the only phrase that leads our thoughts slightly towards a “political” role of and for NGOs. NGO partnerships are justified primarily in terms of their “local” supplementarity to the state’s social programmes. This is an example of how the state is discursively constructing an image of NGOs as “non-political partners,” while failing to recognise the inherent politics of being a government implementer and working with “rights” in public-private partnerships. As Rajni Kothari argues, for the state, the voluntary sector is simply “part of the private sector with the added advantages that it could also invoke the rhetoric of ‘environment’, ‘people’s participation’, and ‘voluntarism.’”<sup>480</sup>

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<sup>475</sup> Government of India, National Policy on the Voluntary Sector, 5.1.

<sup>476</sup> Government of India, 10th Five Year Plan (Vol-2), 3.2.45.

<sup>477</sup> See for instance World Bank, quoted in Kamat, “The privatization of public interest: theorizing NGO discourse in a neoliberal era,” 169; Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 86.

<sup>478</sup> Jakimow, *Peddlers of Information. Indian Non-Government Organizations in the Information Age*, 95.

<sup>479</sup> Randeria, “The State of Globalization: Legal Plurality, Overlapping Sovereignities and Ambiguous Alliances between Civil Society and the Cunning State in India,” 8.

<sup>480</sup> Kothari, “NGOs, the State and World Capitalism,” 2181.

In 2015, the Planning Commission was replaced by the “government’s premier think tank” NITI Aayog,<sup>481</sup> the Modi government’s break from the socialist legacy of the Five Year Plans. In many ways, the practices of outsourcing social services to NGOs continued, but the discursive packaging of this practice changed significantly. Instead of Five Year Plans, the NITI Aayog produces “Fifteen Year Visions,” “Seven Year Strategies” and “Three Years Action Agendas.”<sup>482</sup> Furthermore, while the Five Year Plans are long and bureaucratic documents, NITI Aayog communicates with the public through a website that chiefly gives the impression of being a commercial for India.<sup>483</sup> With large images of Modi and depictions of development success stories, NITI Aayog is an example of what Ravinder Kaur calls “brand new nation.”<sup>484</sup>

When it comes to NGOs, NITI Aayog has a so-called Voluntary Action Cell with the task of “promot[ing] voluntarism in the country.”<sup>485</sup> The Cell’s function is to prepare policy guidelines for the voluntary sector, to operationalise such policy, to make guidelines for the implementation of various government schemes through voluntary organisations, and to maintain a database of NGOs.<sup>486</sup> In describing this Cell, the NITI Aayog website underlines the necessity of “a good partnership” between the government and NGOs in order to find “innovative solutions” and “to effectively implement social sector initiatives.”<sup>487</sup> NITI Aayog also writes on

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<sup>481</sup> Government of India, Three Year Action Agenda (New Delhi: NITI Aayog, 2017), <https://www.niti.gov.in/sites/default/files/2023-03/Three-Year-Action-Agenda-2017-19.pdf> (accessed 12 October 2023), i. NITI Aayog is an abbreviation of the National Institution for Transforming India, and *niti* also means “policy” in Hindi.

<sup>482</sup> Ibid.

<sup>483</sup> <https://www.niti.gov.in/> (accessed 11 October 2023).

<sup>484</sup> Ravinder Kaur, *Brand New Nation: Capitalist Dreams and Nationalist Designs in Twenty-First-Century India* (Stanford: Stanford University Press, 2020).

<sup>485</sup> Government of India, “Voluntary Action Cell,” 2021, <https://www.niti.gov.in/verticals/voluntary-action-cell#:~:text=The%20functions%20of%20the%20cell,database%20of%20NGOs%20FVOs%20etc> (accessed 11 October 2023).

<sup>486</sup> Ibid.

<sup>487</sup> Ibid.

their website that “VOs/NGOs play a major role in the development of the nation by supplementing the efforts of the Government.”<sup>488</sup> These phrases are indicative of a continuation of the language that we saw in the Five Year Plans, but with more marketised expressions. Importantly, NGOs are still seen mainly as implementers.

NITI Aayog and its Voluntary Action Cell also continue to insist on the “non-political” characterisation of NGOs. Consider for instance this list of “service delivery” issues that a NITI Aayog Working Committee on engagement with civil society organisations is meant to focus on:

1. Health, Nutrition and Sanitation
2. Child Rights/Juvenile Justice/Child Labour
3. Bonded Labour
4. Trafficking of Women and Children
5. Women Empowerment and Security
6. Disability and barrier free movement
7. Elderly Care
8. Basic amenities and infrastructure
9. Inclusive and Alternative Education
10. Skill development/vocational trainings/Promotion of Entrepreneurship.
11. Economic Empowerment through Microfinance.
12. Disaster Relief/ Environment Issue<sup>489</sup>

The only mention of “rights” in this list of “service provision” issues is “child rights,” indicating that the NITI Aayog considers child rights a non-threatening rights issue on par with “skill development” and “elderly care.” It is surely not a coincidence that other, more “political” rights issues are not mentioned here.

It is also NITI Aayog that manages the NGO Darpan, the official database of NGOs in India. On its website, the NGO Darpan is said to have the purpose of promoting “partnership between [the] government & [the] voluntary

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<sup>488</sup> Government of India, “NGO Darpan.”

<sup>489</sup> Government of India, “Achievements in the year 2018-19,” 2021  
<https://www.niti.gov.in/verticals/voluntary-action-cell/achievements-in-the-year-2018-19>  
(accessed 10 July 2023).



sector” and fostering “better transparency, efficiency and accountability.”<sup>490</sup> The NGO Darpan contains a directory of NGOs and a possibility for NGOs to apply online for social schemes, but also a page called “Blacklisted NGOs.”<sup>491</sup> It is voluntary for NGOs to register in the NGO Darpan, but mandatory if they have a foreign funding certificate or government grants.<sup>492</sup> The NGO Darpan is thus also a way for the state to control NGOs. In sum, state documents – including the digital documents of the NITI Aayog – have over the last decades increasingly consolidated the ideal role of an NGO as being a local and non-political service implementer.

#### 4.3.3. The non-political NGO

Overall, we can observe that while policies are framing NGOs as “partners,” laws control them in a number of ways. Funding from the Indian state is encouraged through grants-in-aid, while foreign funding is strictly regulated. This suggests a praising of NGOs that work within the state’s development paradigm and a restriction of those that might contest it by seeking funding from abroad, especially when they are of a “political nature,” a vague term left for the state to specify on a case-by-case basis. As demonstrated by other scholars, NGOs working explicitly with for instance minority rights are deemed “political” and thus restricted, while Hindutva-friendly voluntary organisations are supported and encouraged.<sup>493</sup> When it comes to child rights organisations, we will see in Chapter 6 how more activist child rights organisations are being pulled in the direction of being more service-oriented. Bornstein and Sharma suggest that “[t]he trend of increasing state regulation of NGOs, both in India and worldwide, reflects that NGOs are seen not

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<sup>490</sup> Government of India, “About Us,” 2022, <https://ngodarpan.gov.in/index.php/home/about> (accessed 11 October 2023).

<sup>491</sup> Ibid.

<sup>492</sup> Government of India, “Achievements in the year 2018-19.”

<sup>493</sup> Grah, Lindberg, and Widmalm, “Autocratization in South Asia,” 9.

merely as ‘doing good’ but as doing politics.”<sup>494</sup> By framing ideal NGOs as non-political, the state in fact implies that they are inherently political.

The complexity of NGOs being both restricted and encouraged was well expressed in an interview that I conducted with Ingrid Srinath, Director of the Centre for Social Impact and Philanthropy and former Executive Director of CHILDLINE India Foundation. She highlighted how it was not easy to fully grasp the NITI Aayog and the present government’s general attitude towards civil society. On the one hand, as someone who had worked for civil society organisations for decades, she felt the increasing crackdown on NGOs under Modi, but on the other hand, the NITI Aayog asked her academic centre to put together a report evaluating the government’s civil society policies. Resonating with the analyses of the Indian state as acting in opposing directions as discussed above, Srinath simply called it “random”:

NITI Aayog is only one part of the government. So at the same time that NITI Aayog is commissioning us to write a report, the Home Ministry is changing the laws in the exact opposite direction. Or the Finance Ministry is off doing its own thing. Or the Ministry of Corporate Affairs is changing (...) the CSR laws. (...) the grants-in-aid programme, for example, is independently run by some fifteen different ministries with *completely* different criteria (...). On the one hand, Supreme Court decided that NITI Aayog shall be the point of contact with the government towards civil society. They were (...) hearing some case around alleged corruption (...) and so they sort of almost instructed NITI Aayog, “you must create a platform, you must...” so NITI Aayog didn’t necessarily come to this voluntarily, it was sort of almost imposed on them by the Supreme Court. They then created (...) the Voluntary Sector Committee (...). But the criteria for (...) being eligible to join this committee is that you have to be a service delivery organisation. You cannot be a campaigning or advocacy (...) organisation. So they have a consultation process, but it’s limited to a certain kind of organisation. (...) *So it’s a bit random.*<sup>495</sup>

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<sup>494</sup> Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” 86.

<sup>495</sup> Interview no. 22.

We have thus far seen the neoliberal and autocratising sides of the paradox that was introduced at the beginning of the chapter. I now turn to the other side, namely the tendency of adopting child rights legislation. In this legislation, we find a language which implies a strong role and duties for the state, in peculiar contrast to the “partnership” and “outsourcing” discourse.

#### 4.4. The rights tendency: expanding the child rights regime

I have discussed the rights ascendancy in India during the early 2000s, which was characterised by the adoption of a number of legal acts relating to the right to information, work, education, and food. In this section, I present national acts on *children’s* rights that were adopted during the same period: the Commissions for Protection of Child Rights Act, 2005; the Child Marriage Act, 2006; the Right to Education Act (RTE), 2009; the Juvenile Justice Act (JJ Act), 2015; the Child Labour Act, 2016; and the Protection of Children from Sexual Offences Act (POCSO), 2012. The combined impact of these acts on child rights and child protection<sup>496</sup> have not yet been examined as a part of the rights ascendancy, which is my objective in this section.<sup>497</sup> I will not only discuss the acts themselves, but also some of the

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<sup>496</sup> For the purpose of later relating this to my case study of CHILDLINE, I will mainly examine laws related to children’s right to *protection* and only to a limited extent child rights in general. For an overview of child-related laws and policies, see Asha Bajpai, *Child Rights in India. Law, Policy and Practice*, Third ed. (New Delhi: Oxford University Press, 2017); Government of India, National Plan of Action for Children, 1, 6 (New Delhi 2016), <https://wcd.nic.in/sites/default/files/National%20Plan%20of%20Action%202016.pdf> (accessed 12 October 2023); Government of India, *Children in India 2018 - A Statistical Appraisal*, 122-25 (New Delhi 2018) [https://www.im4change.org/docs/189Children\\_in\\_India\\_2018\\_A\\_Statistical\\_Appraisal.pdf](https://www.im4change.org/docs/189Children_in_India_2018_A_Statistical_Appraisal.pdf) (accessed 12 October 2023).

<sup>497</sup> For a thorough overview of their history and contents, see Bajpai, *Child Rights in India. Law, Policy and Practice*. I will here focus on commenting on notions of rights and duties.

policies, action plans and schemes<sup>498</sup> that seek to implement them, in order to show how the notions of right and duty change the further we climb down the ladder of implementation. All this “paper” – the acts, policies, action plans, and schemes – represent a new rights-based regime for children in India. I argue that giving an implementer role to NGOs has the consequence of turning “rights” into a “service.” If the state can control NGOs as implementers of rights-based services, NGOs are not regarded as threatening, but are simply conceived of as those who are in charge of the last step of implementation, which is often difficult for the state itself to effectuate.

In 4.4.1., I go into the details of the child rights acts and how they frame rights and duties. In 4.4.2., I examine a number of the state documents that are meant to “implement” the acts, namely the National Policy for Children, the National Plan of Action for Children, and the Integrated Child Protection Scheme (of which CHILDLINE is a part). In sum, I demonstrate how children’s protection issues are largely framed in a language of “rights” in Indian national law and policy, and how acts maintain state organs as duty bearers for these rights, while policies, and in particular action plans and schemes, distribute significant responsibilities to NGOs for implementation. Before proceeding, it is important to note that these documents are not only “state documents,” but also represent an NGOs voice. As mentioned above, many of them were crafted at a time when civil society was not as restricted as it is today, and civil society thus had a significant influence in framing them.<sup>499</sup>

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<sup>498</sup> In this context, “policy” refers to an overarching guideline in a certain area of legislation.

“Action plan” refers to a more concrete plan for how to effectuate a policy over a specific period of years. “Schemes” are the most concrete and “implementation”-near programmes, providing specific claimable benefits to a specific population.

<sup>499</sup> For instance, my interview with child rights activist Nishit Kumar demonstrated that he and CHILDLINE India Foundation had made significant lobbying efforts for adopting the Protection of Children from Sexual Offenses Act (Interview no. 20) and in my interview with Jeroo Billimoria, founder of CHILDLINE, she said that she had basically written the Integrated Child Protection Scheme (Interview no. 23).

#### 4.4.1. A proliferation of national acts

Developing specific acts for children's rights can be characterised as part of what Jayal has argued to be a social welfare policy trend in India: to identify specific categories of the population that deserve welfare. The logic is that all citizens are entitled to civil and political rights, but the entitlement to additional social and economic provisions is "derivative of, and conditional upon, their placement in particular categories."<sup>500</sup> One such category is the category of the "child," and, further, the "child in need of care and protection," which has become a major category in Indian child protection law. As part of this trend, the Ministry of Women and Child Development was created in 2006, and it adopted a rights-based approach to its work.<sup>501</sup>

An important background to the child rights acts is that India ratified the UN Convention on the Rights of the Child (UNCRC) in 1992 (almost a decade before the legal child rights ascendancy in India properly began with the first Juvenile Justice Act (2000)) and this led to a new rights language and rights advocacy within NGOs, which I will return to in the next chapter. Both the Indian government and the UN Committee on the Rights of the Child have recognised the sum of the acts introduced above as equalling the main legislative framework for children's protection rights in India.<sup>502</sup> As we saw in the previous chapter, the UN Committee on the Rights of the Child encourages partnerships between states and NGOs, which is also discernible in its comments on India's state reports.<sup>503</sup>

These acts are arguably rights-based acts – and thus part of the rights ascendancy during the 2004-2014 UPA rule – since they all to some extent employ a language of rights and place demands on the state as a duty bearer. For instance, the Protection of Children from Sexual Offences Act refers to

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<sup>500</sup> Jayal, *Citizenship and its Discontents: An Indian History*, 171.

<sup>501</sup> Ibid., 170. Loveleen Kacker, Srinivas Varadan, and Pravesh Kumar, *Study on Child Abuse: India 2007*, Ministry of Women and Child Development, Government of India (2007).

<sup>502</sup> Government of India, National Plan of Action for Children, v; United Nations Committee on the Rights of the Child, "Concluding observations on the combined third and fourth periodic reports of India."

<sup>503</sup> United Nations Committee on the Rights of the Child, "Concluding observations on the combined third and fourth periodic reports of India," para. 27, 28.

the UNCRC in its preamble and in the actual text mentions the “right” of the child to legal counselling.<sup>504</sup> The act also employs a more associative rights language<sup>505</sup> by for instance mentioning the “dignity” of children.<sup>506</sup> It also states that the Commission of Protection of Child Rights should monitor this act, thus acknowledging it as part of a larger rights machinery.<sup>507</sup>

All the aforementioned acts were either adopted or amended after India’s ratification of the UNCRC. However, some of them have roots that go further back. For instance, the Child Marriage Act from 2006 replaced a colonial act on the same subject from 1929; child labour was already restricted in 1986; the right to education was articulated already in the independence struggle, but not included as a fundamental right by the Constituent Assembly<sup>508</sup> (it was included after the adoption of the Right to Education Act). Today, however, the acts are all part of converging India’s legislation with the UNCRC. For instance, most of the acts provide for some kind of “child friendly” procedure, such as specific Children’s Courts, a Special Juvenile Police Officer or a Child Marriage Prohibition Officer, in line with the UNCRC’s notion of the best interests of the child. The Commissions for Protection of Child Rights Act is significant because it sets up national and state commissions mandated to ensure that all laws, policies, and programmes are consonant with a child rights perspective, and it defines child rights as the

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<sup>504</sup> Government of India, The Protection of Children from Sexual Offences Act, 2012, Art. 40 (New Delhi 2012)  
<https://www.indiacode.nic.in/bitstream/123456789/9318/1/sexualoffencea2012-32.pdf>  
(accessed 12 October 2023).

<sup>505</sup> Associative rights language is the implicit reference to human rights norms (Frida Nilsson, “Självklart och oklart: Mänskliga rättigheter som kunskapsinnehåll i gymnasieskolan” (Doctor of Philosophy Monograph, Lund University, 2022), 57,  
[https://lucris.lub.lu.se/ws/portalfiles/portal/120478226/F\\_L\\_Nilsson\\_avhandling.pdf](https://lucris.lub.lu.se/ws/portalfiles/portal/120478226/F_L_Nilsson_avhandling.pdf)  
(accessed 11 October 2023)).

<sup>506</sup> Government of India, The Protection of Children from Sexual Offences Act, 2012, Art. 33(6).

<sup>507</sup> *Ibid.*, Art. 44.

<sup>508</sup> Chandhoke, “Social Rights and the Paradox of Indian Democracy,” 45.

rights adopted in UNCRC.<sup>509</sup> We should keep in mind, however, that while all the acts recognise rights of children at some level, they vary in the extent to which they specify what children have a *right* to under the act in question.

When it comes to duty bearing for the rights in the child protection legislation, the primary duties lie with specific state agencies set up by the acts, often at the district level. For instance, the Juvenile Justice Act sets up Juvenile Justice Boards to handle “children in conflict with the law” and Child Welfare Committees for “children in need of care and protection.”<sup>510</sup> The Right to Education Act puts a great deal of responsibility on schools and teachers, including non-governmental ones. It furthermore places responsibility on parents, as “[i]t shall be the duty of every parent or guardian to admit or cause to be admitted his or her child or ward, as the case may be, to an elementary education in the neighbourhood school.”<sup>511</sup> The Child Marriage Act established the office of the Child Marriage Protection Officer who has a long list of duties, such as “to create awareness of the evil which results from child marriages” and “to prevent solemnisation of child marriages.”<sup>512</sup> The

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<sup>509</sup> Government of India, The Commissions for Protection of Child Rights Act, 2005, Art. 2(b) (New Delhi 2006) <https://wcd.nic.in/sites/default/files/TheGazetteofIndia.pdf> (accessed 12 October 2023).

<sup>510</sup> The latter category refers to children found in need of shelter; working in contravention with labour laws, begging, or living on the street; living with someone who is abusing or neglecting, threatening to or has abused other children; mentally ill or suffering incurable disease; who has parents incapable of taking care of them; who does not have parents and no one willing to take care of them; missing or run-away children; has been or is likely to be abused; who is found vulnerable and likely to be induced into drug taking; who is being or likely to be abused for unconscionable gains; victim of armed conflict or unrest or natural calamities; or at imminent risk of marriage before turning 18. (Government of India, Juvenile Justice (Care and Protection of Children) Act, 2015, art. 2(14) (New Delhi 2016) <https://cara.wcd.gov.in/PDF/JJ%20act%202015.pdf> (accessed 12 October 2023)).

<sup>511</sup> Government of India, Right of Children to Free and Compulsory Education Act, 2009, Art. 10 (New Delhi 2009), [https://www.indiacode.nic.in/bitstream/123456789/19014/1/the\\_right\\_of\\_children\\_to\\_free\\_and\\_compulsory\\_education\\_act\\_2009.pdf](https://www.indiacode.nic.in/bitstream/123456789/19014/1/the_right_of_children_to_free_and_compulsory_education_act_2009.pdf) (accessed 12 October 2023).

<sup>512</sup> Government of India, The Prohibition of Child Marriage Act, 2006, art 14(3) (New Delhi 2007), [https://www.indiacode.nic.in/bitstream/123456789/15943/1/the\\_prohibition\\_of\\_child\\_marriage\\_act%2C\\_2006.pdf](https://www.indiacode.nic.in/bitstream/123456789/15943/1/the_prohibition_of_child_marriage_act%2C_2006.pdf) (accessed 12 October 2023).

Protection of Children from Sexual Abuses Act sets up a special court to deal with child sexual abuse cases.<sup>513</sup>

NGOs are not considered legal duty bearers in these national acts. When mentioned, they are entities that are allowed or obliged to take certain actions, such as making a complaint under the Child Marriage Act,<sup>514</sup> producing a child before the Child Welfare Committee,<sup>515</sup> as organisations that can be asked to assist the Child Marriage Prohibition Officer,<sup>516</sup> or as experts comparable to child psychologists.<sup>517</sup> CHILDLINE is the only NGO that is specifically mentioned in the Juvenile Justice Act as an agency that any individual officer seeing an abandoned child should go to.<sup>518</sup> As such, CHILDLINE is considered part of the general framework of child protection, to the extent that it is even mentioned in national laws. But overall, all of the child rights acts place duties for rights firmly with the state.

#### 4.4.2. The documents that implement rights

Following the above laws, a discourse of rights has been sown through recent policies on children in India. The 11<sup>th</sup> Five Year Plan was the first plan where “Child Rights” was part of a section title, and the National Policy for Children and its adherent Action Plan are rife with rights references. Below, I will demonstrate this as well as how, at the level of policies, the state is presented as the primary duty bearer, and collaborations with civil society and specifically NGOs are mentioned as additions; whereas when it comes to more implementation-near action plans and schemes, NGOs are directly given responsibilities and roles.

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<sup>513</sup> Government of India, The Protection of Children from Sexual Offences Act, 2012, Chapter 7.

<sup>514</sup> Government of India, The Prohibition of Child Marriage Act, 2006, Art 13(2).

<sup>515</sup> Government of India, Juvenile Justice (Care and Protection of Children) Act, 2015, Art. 31.

<sup>516</sup> Government of India, The Prohibition of Child Marriage Act, 2006, Art 14(2).

<sup>517</sup> Government of India, The Protection of Children from Sexual Offences Act, 2012, Art. 39.

<sup>518</sup> Government of India, Juvenile Justice (Care and Protection of Children) Act, 2015, Art. 32(1).



#### 4.4.2.1. *The National Policy for Children*

Since 1974, India has adopted National Policies for Children in order to inform all laws, policies, plans and programmes affecting children.<sup>519</sup> The most recent, from 2013, claims a “commitment to the rights based approach for children”<sup>520</sup> and refers to a long list of international treaties on children signed by India.<sup>521</sup> The policy’s introduction declares the state to be “responsible for ensuring that childhood is protected from exploitation and moral and material abandonment.”<sup>522</sup> It continuously refers to how “the State” “is committed to” or “shall take all necessary measures” in relation to the principles in the policy.<sup>523</sup> The policy furthermore describes the State as having “the primary responsibility to ensure that children are made aware of their rights.”<sup>524</sup> But while the state is given the bulk of responsibility in the policy, private bodies are also considered responsible to a certain extent. Words like “multi-sectoral” and “integrated” approach<sup>525</sup> hint at the partnership model that we saw in the Five Year Plans, and which we will see in the CHILDLINE model in the next chapter. A rights-based approach to survival, development and protection, according to the policy, “calls for conscious, convergent and collateral linkages among different sectors and settings.”<sup>526</sup> The policy argues that ensuring coordination “between government and civil society is crucial for effective implementation of this Policy.”<sup>527</sup> In sum, the National Policy for Children envisions an ambitious amount of responsibility for the state; however, it refers to civil society and NGOs as important partners in implementation – very much like the

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<sup>519</sup> Government of India, National Policy for Children, 2.3. (New Delhi 2013), <https://wcd.nic.in/sites/default/files/npcenglish08072013.pdf> (accessed 12 October 2023).

<sup>520</sup> Ibid., 7.

<sup>521</sup> Ibid., 1.2.

<sup>522</sup> Ibid., 1.1.

<sup>523</sup> Ibid., 4.2., 4.4.

<sup>524</sup> Ibid., 4.14.

<sup>525</sup> Ibid., 2.1.

<sup>526</sup> Ibid., 6.1.

<sup>527</sup> Ibid., 6.2.

conceptualisation of duty bearing we saw with the Committee on the Rights of the Child in the previous chapter.

#### 4.4.2.2. *The National Plan of Action for Children*

On the basis of the National Policy, India adopts a National Plan of Action for Children, and similar plans are formulated at State, District and local levels.<sup>528</sup> The goal of the National Plan of Action 2016-2021 was to turn the policy objectives into “actionable programmes” and schemes,<sup>529</sup> going a further step down the bureaucratic implementation ladder – and one step closer to NGOs.

The Action Plan refers to the Constitution and Fundamental Rights of children,<sup>530</sup> to the UNCRC,<sup>531</sup> the Universal Declaration on Human Rights<sup>532</sup> and “rights of children” in general.<sup>533</sup> Just as the National Policy and the Planning Commission documents treated above, the Action Plan embraces partnerships, a “multi-sectoral approach,”<sup>534</sup> “convergence with different stakeholders,”<sup>535</sup> and the fact that children’s needs are “inter-sectoral.”<sup>536</sup> One part specifically deals with developing and supporting partnerships with, *inter alia*, NGOs and promoting public-private partnerships (PPPs) for child protection.<sup>537</sup> And going beyond just a lofty praising of civil society partnerships, the Action Plan states that “[t]here are certain areas where the civil society and NGOs are required to play a larger role.”<sup>538</sup> In the National Policy, awareness raising about children’s rights was a responsibility assigned

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<sup>528</sup> Ibid., 6.4.; *ibid.*, 109.

<sup>529</sup> Government of India, National Plan of Action for Children, v.

<sup>530</sup> Ibid., 1.

<sup>531</sup> Ibid., v.

<sup>532</sup> Ibid., 2.

<sup>533</sup> Ibid., vii.

<sup>534</sup> Ibid.; *ibid.*, ix.

<sup>535</sup> Ibid., v.

<sup>536</sup> Ibid., 5.

<sup>537</sup> Ibid., 47.

<sup>538</sup> Ibid., 113.

to the state. The fact that the Action Plan explicitly puts this on NGOs demonstrates that it is only ultimate responsibility that is envisioned for the state: implementation can be distributed.

#### *4.4.2.3. The Integrated Child Protection Scheme*

The way that rights implementation is practically handed out to NGOs is mostly through so-called centrally sponsored schemes. Schemes are meant to implement the entitlements guaranteed in law. The most important scheme for my context is the Integrated Child Protection Scheme (ICPS), which funds the CHILDLINE programme.<sup>539</sup> The ICPS was launched in 2009<sup>540</sup> and introduced in the 11<sup>th</sup> Five Year Plan. It was revised in 2014. In both the 2009 and 2014 versions, CHILDLINE was written into the scheme as an integral component, on par with the state components, such as District Child Protection Units and State Child Protection Societies.<sup>541</sup> The scheme is thus in itself a state-civil society partnership.

“Child protection” in the Ministry of Women and Child Development’s proposal for the ICPS is considered “a right of every child.”<sup>542</sup> The proposal argues for the need to improve implementation in order for rights to be effective: India’s “laws and policies promising respect for child rights, their protection and well being have not resulted in much improvement in lives of millions of Indian children who continue to be deprived of their rights,”<sup>543</sup> and there are “glaring gaps” and “major shortcomings” in existing child protection services.<sup>544</sup> The Ministry attributes this implementation gap to “meagre resources; minimal infrastructure; inadequate services in variety,

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<sup>539</sup> CHILDLINE’s employees were themselves part of lobbying for creating of the scheme.

<sup>540</sup> Government of India, *The Integrated Child Protection Scheme (ICPS): A Centrally Sponsored Scheme of Government – Civil Society Partnership*, (n.p. 2009).

<sup>541</sup> *Ibid.*, 60-62.; Government of India, *The Integrated Child Protection Scheme (ICPS) - A Centrally Sponsored Scheme of Government - Civil Society Partnership*, 104.

<sup>542</sup> Government of India, *The Integrated Child Protection Scheme (ICPS): A Centrally Sponsored Scheme of Government – Civil Society Partnership*, 8.

<sup>543</sup> *Ibid.*

<sup>544</sup> *Ibid.*, 15.

quantity and quality; and inadequate monitoring and evaluation.”<sup>545</sup> Therefore, the ICPS is envisaged as an umbrella scheme that brings existing child protection services together.<sup>546</sup> One of the objectives of the ICPS is to “clearly articulate (...) responsibilities and enforced accountability for child protection.”<sup>547</sup>

The target group of the ICPS scheme are children in need of care and protection and children that are in conflict with the law.<sup>548</sup> The ICPS comprises a number of government child protection services. Of particular importance for CHILDLINE is the District Child Protection Unit (DCPU), which is meant to perform tasks including: implementing child protection legislation and schemes in line with the National Plan of Action; identifying and supporting voluntary organisations that implement ICPS programmes; providing training for government and NGOs working on child protection; coordinating with other government departments that are working with children; and maintaining individual care plans for children.<sup>549</sup> It is also charged with setting up District, Block and Village Level Child Protection Committees, something that we will see is, in most places, non-existent or set up by local NGOs instead. The ICPS further finances the Child Welfare

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<sup>545</sup> Ibid., 8.

<sup>546</sup> Government of India, The Integrated Child Protection Scheme (ICPS) - A Centrally Sponsored Scheme of Government - Civil Society Partnership, 34.

<sup>547</sup> Government of India, The Integrated Child Protection Scheme (ICPS): A Centrally Sponsored Scheme of Government – Civil Society Partnership, 20. The idea of an “integrated scheme” refers to the integration of different existing government departments and services. ICPS particularly takes inspiration from the Integrated Child Development Services (ICDS), which since 1975 has been concerned with health for mothers, infants, toddlers and adolescent girls. Many other schemes in India use the word “integrated” to refer to the collaboration between departments or the umbrella-like nature of the scheme (see e.g. Corbridge et al., *Seeing the State: Governance and Governmentality in India*, 67-68; Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*, 230).

<sup>548</sup> Government of India, The Integrated Child Protection Scheme (ICPS) - A Centrally Sponsored Scheme of Government - Civil Society Partnership, 11.

<sup>549</sup> Ibid., 14.

Committees (CWCs) and Juvenile Justice Boards (JJBs) at the district level.<sup>550</sup> In addition, the scheme governs institutional and non-institutional care for children. Finally, it financially supports CHILDLINE India Foundation and mandates that the CHILDLINE service must be available in all of India's districts.<sup>551</sup>

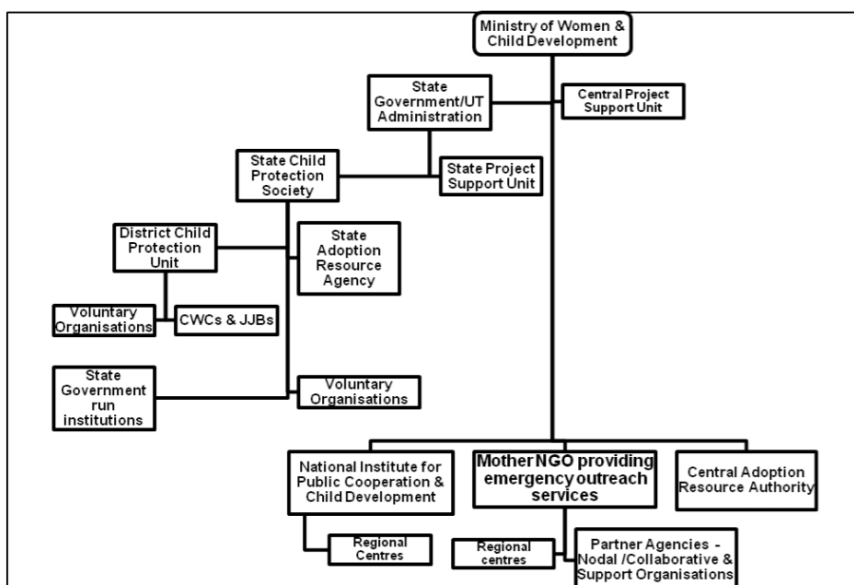


Figure 4: Financing model of the ICPS scheme<sup>552</sup>

The financing model (Figure 4) has a state branch and an NGO branch, indicating that NGOs are a key part of the scheme's implementation. It gives the impression that primary responsibility lies with central and state governments, but it also diversifies funding and responsibility to a multitude

<sup>550</sup> Government of India, Annual Report 2016-2017 (of Ministry of Women and Child Development), 4.11.

<sup>551</sup> CHILDLINE India Foundation, *CHILDLINE Calling... Is India Listening? An analysis of calls to 1098 (2015 and 2016)*, CHILDLINE India Foundation (Mumbai, 2017), 12.

<sup>552</sup> Government of India, *The Integrated Child Protection Scheme (ICPS) - A Centrally Sponsored Scheme of Government - Civil Society Partnership*, 30.

of stakeholders. Indeed, while the Ministry recognises that “Government, both Central and State, has an obligation to ensure a range and a spectrum of services at all levels,”<sup>553</sup> the ICPS scheme also considers child protection to be “a primary responsibility of family, supported by community, government and civil society.”<sup>554</sup> The scheme is in fact called a “Government-CSO [Civil Society Organisation] partnership.”<sup>555</sup> The voluntary sector – which is one amongst other partners, the others being “community groups, academia and, most importantly, families and children”<sup>556</sup> – is envisioned to play the following roles under the ICPS scheme:

[t]o lobby for the protection of children of India and act as a watch-dog on the situation of children and implementation of public policies and programmes aimed at children; to provide vibrant, responsive and child friendly services for detection, counseling, care and rehabilitation for all children in need. [To] [p]rovide technical support for awareness raising, capacity development, innovations and monitoring. These may be financially supported by the State.<sup>557</sup>

In this telling quote, the Ministry calls for NGOs to be watchdogs for public policies at the same time as being service providers, expert consultants and mediators of information – all while being financially supported by the state. It is here apparent that and in what ways the state conditions voluntary organisations through “partnerships.” Thus, in the ICPS scheme, it is the obligation of Central and State governments to ensure that a spectrum of child protection services exists at all levels, but child protection is “a primary responsibility of family, supported by community, government and civil society.”<sup>558</sup>

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<sup>553</sup> Government of India, The Integrated Child Protection Scheme (ICPS): A Centrally Sponsored Scheme of Government – Civil Society Partnership, 21.

<sup>554</sup> Ibid.

<sup>555</sup> Ibid., 25.

<sup>556</sup> Ibid.

<sup>557</sup> Ibid., 26-27.

<sup>558</sup> Ibid., 21.

This section has dealt with the expanding child rights regime in India. I have shown that a number of national child rights acts have been amended or adopted during the same period as the neoliberal ascendancy has taken place. Looking closer at these national acts, they do indeed envision a strong role for the state as the primary duty bearer of children's rights. Yet, the further we climb down the implementation ladder – from international and domestic law, through national policies and action plans, to schemes like the Integrated Child Protection Scheme – the larger the envisioned role for NGOs is. In a scheme like the ICPS, NGOs are considered appropriate implementers of a child's right to protection.

From the above section, it should be clear that there is no lack of seeming goodwill from the state when it comes to the rights of children. From national legislation, to policies, action plans and schemes, children's rights are never questioned as a central guiding principle. However, India's child budget tells another story. It has been reported meticulously by the critical child rights organisation HAQ<sup>559</sup> and in newspapers<sup>560</sup> that the child budget in India does not follow the state's policy ambitions. As one of my interviewees put it:

The most ridiculous budget of any government department anywhere in India is the child protection budget. I mean, we have a ridiculously low education budget, a pathetically low health budget, but the child protection budget is just unbelievable.<sup>561</sup>

The state's financial allocations towards rights-based child protection should therefore also be seen as part of the story of the state's reluctance to implement child rights in practice and why it is outsourcing much of the latter to NGOs.

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<sup>559</sup> HAQ Centre for Child Rights, "HAQ's Publication on Budget for Children," 2023, <https://www.haqcrc.org/our-work/publications/budget-for-children/> (accessed 11 October 2023).

<sup>560</sup> Snigdhendu Bhattacharya, "Children's Share in Budget Has Nearly Halved Since Modi Took Charge," *The Wire*, 21 February 2022, <https://thewire.in/rights/modi-budget-share-for-children>.

<sup>561</sup> Interview no. 22.

## 4.5. NGO roles in a fragmented state

The picture that emerges of the Indian state's conditioning of NGOs is one in which NGOs neither have enough space to play the watchdog role, nor one in which the state has retreated to the extent that they are mere "band-aids" that fix gaps in the state system. Instead, the state both expands its control of NGOs, which limits their watchdog role, and outsources a service implementation role to them. NGOs have, in other words, become an extended part of the state apparatus. This is not to say that NGOs in practice do not challenge this role, or that they always "play it," as I will discuss in the following two chapters, but rather that the state has a particular interest in constructing such a role for them. Furthermore, because NGOs themselves are sometimes involved in drafting policies and schemes, the roles they are assigned should also be regarded as a compromise between state and NGO demands.

The state's documents convey a picture of NGOs as, on the one hand, as Bornstein and Sharma write, "subversive forces in need of restraint," and, on the other hand, they are "lauded (...) as ideal partners in development and democracy."<sup>562</sup> Indeed, NGOs have a relation to the state in "complicated webs of regulation and resistance."<sup>563</sup> My analysis above is a clear illustration of how previous scholars have defined the Indian state to be expanding, omnipresent and indispensable on the one side, and retreating, absent, inadequate and "cunning" on the other, as discussed above. With increasing restrictions on civil society organisations under the present government, combined with a rhetoric of people being responsible for their own development, being service providers or implementers is the only role that NGOs do not have to fight to keep in a neoliberal state. I have shown that this leads to a discursive construction of rights-based NGOs in India as ideally non-political service implementers. In this construction, rights become a non-political "service."

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<sup>562</sup> Bornstein and Sharma, "The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India," 76.

<sup>563</sup> *Ibid.*, 77.



The image of NGOs that comes across in state documents is an illustration of why the roles of NGOs are necessarily complex and depending on the state in which they operate. The findings in this chapter complicate the state-centred view of the human rights duty bearer that was discussed in Chapter 3, by showing how NGOs cannot simply work as moral watchdogs or benign partners, but have to negotiate particular political constructions, which conditions them. In the Indian case, this means to be part of the state apparatus in order to be legitimate in the view of the state.

Having now considered how the Indian state “on paper” regulates NGOs and legislates when it comes to children’s rights, the next question to address is the implementation of this “paper.” CHILDLINE is a programme that implements the Integrated Child Protection Scheme, and NGOs implement the CHILDLINE programme – how they do this, is what I turn to in the next chapter.

## 5. CHILDLINE: An NGO “inside the belly of the government”

The phone rang. Roshan, a 23-year-old social work student who worked full time at the NGO Suraj, picked up. He placed himself on the broken red office chair next to the landline and listened attentively as he noted down every detail of the call on a notepad. He and the rest of us had been sitting around for hours, waiting for work to come in. Some were scrolling on their phones, others were writing details of previous cases into the Case Detail Register. Some had gone out to the back room where a fan was blowing to protect themselves from the heat. When Roshan hung up, he briefed his colleagues: it was a child marriage case.

Two young couples were about to get married in the city very soon. The slow, hot, idle atmosphere was immediately replaced by fast collaborative action. Pradeep, the Coordinator of the CHILDLINE project at Suraj, ordered Roshan and Prashant to do the case visit and they left immediately. While they were gone, Pradeep wrote a letter to the District Child Protection Unit, the state agency responsible for stopping child marriages, to ask for their collaboration. When Roshan and Prashant came back, they said that the families had been difficult to deal with, as they refused to provide age proof of the boys and even threatened the two NGO workers. It will be all right, Pradeep reassured them, because the officer from the District Child Protection Unit had confirmed that she would join for the next case visit. Prashant packed the kit for the upcoming visit: information folders about CHILDLINE, a statement for the parents to sign, a pen, and a thumb print pad in case they were illiterate. The District Child Protection Unit representative, the police, and Pradeep and Prashant from CHILDLINE joined forces for the visit. With the authority of the government behind them,

the NGO was now able to get the boys' age proofs. It turned out that one was 21 and the other was 18, so there was legally only one child marriage.<sup>564</sup> Then the NGO workers prepared for actually stopping the wedding. The whole office collaborated again: Pradeep took photos of the boys' mark sheet from 10<sup>th</sup> grade (the best age proof they could get) with his phone, sent them to his e-mail and printed them out to save in the case folder. Rina, the office's trainee, was asked to write the case details down in the Case Detail Register. She kept asking the staff questions to get everything right ("Should I put Hindi or Malvi as their language?" "What's the case category?" "Is this number the case number or the phone number?"). Some of the staff discussed how to get age proof of the bride-to-be, because she lived in another district. Roshan copied and stapled documentation. Pradeep flicked through the pile of legal acts lying on a shelf. "Where is the child marriage one?" he said, referring to the Child Marriage Act. He then began ordering Roshan: "Make a case folder. Then call CCC [CHILDLINE Contact Centre] Mumbai and give the follow-up." Later that day, the NGO staff went to stop the wedding, armed with the authority of the District Child Protection Unit, the fear-invoking police, and the provisions of the Child Marriage Act which stated that when a boy under 21 years old gets married, it amounts to child marriage.

This incident which I witnessed during my fieldwork with Suraj in Madhya Pradesh in 2019 illustrates how an NGO-state partnership for children's rights works in practice: an NGO that is ready to receive calls 24-7 has been contracted to coordinate the cases that come in on the state-sponsored child helpline, and the local state agencies back the NGO up with a legal and authoritative mandate. Roshan, Prashant, Pradeep, and their colleagues all argued that this combination of sectors was crucial, because without the being able to appear as the "state," or without the fast-working and motivated spirit of NGO workers, the helpline would not function. As such, CHILDLINE India illustrates the practical hybridity, overlap and interactions between the two sectors, and how NGO workers experienced the state as an ally of NGOs in the face of common social enemies such as child marriage.

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<sup>564</sup> According to the Child Marriage Act, 2006, a marriage of a boy under 21 and a girl under 18 is considered child marriage.

Through an ethnographic study of CHILDLINE, I will in this chapter show how a concrete partnership for children's rights in India in practice juggles different identities, and represents the public and the voluntary sector simultaneously, through a "partnership approach" (engaging many sectors) and a "rights-based approach" (demanding accountability from the state). As CHILDLINE's employees work with these at times contradictory concepts, CHILDLINE represents the "hybridity" of state and NGO,<sup>565</sup> and becomes a semi-governmental actor that mixes values both strategically, but also out of necessity. The chapter hence contributes to the literature on the relationship between human rights and neoliberalism by problematising and nuancing interpretations of this relationship. CHILDLINE India is indeed an example of a human rights practice that is both inherently part of *and* contesting a neoliberal version of rights. This is not because it is a subaltern rights mobilisation resisting neoliberalism, but rather because it is the result of elite social sector endeavours that have adopted neoliberal modes of functioning (outsourcing social services to private entities) and a neoliberal language (such as "stakeholders" and "clients") while maintaining a rights-based mode of functioning (e.g. through child participation) and a rights-based language.

By way of showing these complexities from within the NGO-state partnership, I make two arguments. First, in the practice of the NGO-state partnership CHILDLINE, NGOs and the state overlap to the extent that the separation is hardly visible and, in many instances, they jointly act as one big bureaucracy. NGOs thus become implementers of rights, despite the fact that many activists within CHILDLINE seek to counter neoliberal developments. Furthermore, CHILDLINE's appeal to the duty of responsible citizens and to partnerships between all "stakeholders" represents a production of the meaning of child rights duties not in line with the hegemonic one: it is, in this context, a concept more based in civic duty and individual social entrepreneurship than a state-centred concept.

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<sup>565</sup> Brandsen, Donk, and Putters, "Griffins or chameleons? Hybridity as a permanent and inevitable characteristic of the third sector."

I will illustrate these points by analysing CHILDLINE from four perspectives.<sup>566</sup> The first (5.2.) concerns CHILDLINE's history, and consists of an analysis of the societal and political forces that caused its social entrepreneurial conception and subsequent more bureaucratised expansion. I will illustrate how a group of idealists navigated a political and bureaucratic landscape characterised both by a liberalisation of the economy and by a momentum for child rights advocacy. CHILDLINE was a reaction to India's ratification of the UN Convention on the Rights of the Child, which demanded reforms and new initiatives in the child protection sector – but it was also both a reaction to and a symptom of the liberalisation of the Indian economy and the ensuing privatisation of social services.

The second section (5.3.) delves into the blurred lines between the state and civil society that CHILDLINE represents. It is both a service provider and engaged in advocacy, a dual role which creates a complicated relationship to the state. And not only does CHILDLINE need to juggle different identities vis-à-vis the state, it also needs to address the question of whether it itself is part of the state or part of civil society. Practically, CHILDLINE represents such a thorough overlap of state and civil society that the distinctions are hardly discernible. Yet, CHILDLINE's social workers found it useful to draw on both "NGO virtues," to show their motivation and gain trust with their beneficiaries, and on "state virtues," to invoke fear and action in child rights violators. I characterise CHILDLINE as a hybrid semi-governmental bureaucracy that works for child rights "inside the belly of the government," as one informant put it.<sup>567</sup> This metaphor captures CHILDLINE's strategies of how to negotiate their multiple identities well: CHILDLINE has its own agendas, but at the same time, it is so entangled with the state that it is part of the latter's functioning, and in many ways indistinguishable from it. This is an illustrative example of what Bornstein and Sharma has characterised as

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<sup>566</sup> I focus quite narrowly on the aspects of CHILDLINE that relate to their state-civil society partnership approach, and their ideas about responsibility for rights. There are of course numerous other aspects of CHILDLINE worthy of investigation, such as their strong child participation values, their use of technology, their sheer size, and much more, but these have been left out due to the focus of this study on partnerships for rights.

<sup>567</sup> Interview no. 21.

NGOs becoming Trojan horses – as they take on state work, but at the same time challenges state authority from within<sup>568</sup> – and of the complex ways in which NGOs work both within and against neoliberal policies, as discussed in Chapter 1.

The third section (5.4.) analyses two of CHILDLINE’s core values: working in partnership and working rights-based. I argue that it is beneficial for CHILDLINE to concurrently speak a marketised language of partnerships and stakeholders and to draw on the popular “rights-based” NGO discourse, and that it effortlessly merges the two languages despite their, at times, seeming conceptual incompatibility. The infusion of partnership values into rights values shapes the meaning of working rights-based – and ultimately the meaning of “rights.” Working rights-based in a context where the state is deemphasised as the primary duty bearer, and responsibility is distributed across a number of “stakeholders,” does not equal rights duties with state obligations. Here, instead, rights duties mean to appeal to the duties of citizens themselves to ensure that the society they live in is just and that children get their rights fulfilled.

The fourth section (5.5.) scrutinises what responsibility for child rights denotes in CHILDLINE’s partnership model. It argues that CHILDLINE represents several overlapping understandings of who should be responsible for children’s rights: an understanding of rights-corresponding responsibilities as state obligations, which coheres with the hegemonic human rights language; an understanding of sharing responsibility in partnership; an understanding that NGOs have extra moral responsibilities; and a “self-help”-understanding of individual responsibility, which plays into a neoliberal development discourse. Mixing these understandings, CHILDLINE simultaneously subscribes to and utilises the hegemonic human rights language of states as duty bearers, but also offers a more pragmatic alternative, since calling on “everyone” is believed to be more effective for actually protecting children’s rights. The result of these varied influences and conceptualisations of what duty bearing for rights mean is an understanding

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<sup>568</sup> Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” 80.

that lies somewhere in the middle of the hegemonic-vernacular spectrum of rights languages.

Together, these four sections provide a thick description of the confluence of and meeting between idealism – wanting to improve the lives of children – and pragmatism – fitting into the state’s agenda – which is what constitutes CHILDLINE’s model of being both part of civil society and the state, both rights-based and partnership-based. The analysis also works as an ethnographic illustration of the co-existence of neoliberalism and human rights discussed in Chapter 4. But before I turn to these results, first, I will connect my analysis to previous scholarship on semi-governmental functions in India.

## 5.1. A semi-governmental actor

This chapter will show how CHILDLINE works as a semi-governmental actor, i.e. as a “hybrid”<sup>569</sup> between the ideal type of the state and the ideal type of an NGO. Although the chapter is based on the study of one NGO-state partnership, many previous studies have similarly highlighted the curious position that semi-governmental workers in India find themselves in. My study should, on the one hand, be seen as a continuation of and supporting these arguments and, on the other hand, as an attempt to directly relate these to the language of human rights duty bearing.

Several ethnographers have studied semi-governmental work functions or “government-organised NGOs” (GONGOs) in India. Most of them conclude that the employees in these programmes have to put on different “hats” depending on who they want to represent – the state or NGOs. For instance, in Sharma’s study of a semi-governmental women’s empowerment programme, semi-governmental workers continuously “shifted the program’s

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<sup>569</sup> Brandsen, Donk, and Putters, “Griffins or chameleons? Hybridity as a permanent and inevitable characteristic of the third sector.”

identity between the governmental label and the nongovernmental label.”<sup>570</sup> Many other studies have also highlighted the ambiguity of being a semi-governmental worker and how it creates conflicting identities. Rai and Madhok have studied *sāthīns*, female “activists” from the local community in charge of a governmental programme, in the Rajasthani Women’s Development Programme.<sup>571</sup> There are many more of these types of functions, such as Anganwadi workers (state employees in charge of the village/block-based Integrated Child Development Services all over India, who have long fought for a proper salary and recognition as government servants) and Accredited Social Health Activists (ASHAs) (who, as the name suggests, are governmental rural health workers, yet are designated as “activists”).

Common for all these functions is that they have been labelled “volunteers” or “activists” by the state and, although they represent the state in their professions, they lack the job security, pension and prestige that come with a government job. By outsourcing a service to voluntary agencies, the state appeals to the willingness of a group of professionals to work for the state without a government salary, sometimes even working for less than minimum wage. As Sharma writes, “[c]ategorizing MS [name of the programme she studied] personnel as nongovernmental is not only financially convenient for the state, but it also gives the impression of a more streamlined state in the form of a smaller and more flexible work force.”<sup>572</sup> Most of the NGO workers at the district level CHILDLINE programme that I study worked for just above the minimum wage and framing of their “service” as “voluntary” was,

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<sup>570</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 70. For an in-depth book based on the same women’s empowerment programme, see Aradhana Sharma, *Logics of Empowerment: Development, Gender, and Governance in Neoliberal India* (Minneapolis: University of Minnesota Press, 2008). For another interesting study of the same programme, see Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*, chapter 7.

<sup>571</sup> Shirin M. Rai and Sumi Madhok, “Agency, Injury, and Transgressive Politics in Neoliberal Times,” *Signs* 37, no. 3 (2012).

<sup>572</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 72.



indeed, crucial for CHILDLINE's low-cost functioning.<sup>573</sup> As Sharma concludes in her study, the semi-governmental women's empowerment programme was "NGO in some contexts and (...) a government programme in others."<sup>574</sup>

It is clear from these studies that NGOs contracted by the state to implement the state's welfare programmes are somehow distinct from, yet integral parts of the state apparatus. CHILDLINE is another example of this type of NGO, with the curious addition that CHILDLINE, almost like a Trojan horse, deliberately sought to get into the "belly" of the government. I will therefore argue that CHILDLINE is a typical example of Brandsen et al.'s "hybrid" organisation that is defined by neither being convergent with the ideal type of the state nor with the ideal type of a full-fledged NGO.<sup>575</sup> Now, I turn to the story of CHILDLINE's birth and development, which began as an idea conceived by a social worker in Mumbai in the 1990s, and end with it being the largest child protection network in India.

## 5.2. From field action project to national government scheme

"All the biggest and most successful government programmes<sup>576</sup> in India started off as an NGO project," Ingrid Srinath said as I talked to her over a Skype connection from my Covid quarantine apartment in Copenhagen.<sup>577</sup> Srinath was in Delhi, where she was working as a Director of the Center for Social Impact and Philanthropy at Ashoka University. Previously, she had been the Executive Director of CHILDLINE India Foundation. Her dual

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<sup>573</sup> As pointed out by Srinath (Interview no. 22).

<sup>574</sup> Sharma, "Crossbreeding institutions, breeding struggle: Women's empowerment, neoliberal governmentality, and state (re)formation in India," 61.

<sup>575</sup> Brandsen, Donk, and Putters, "Griffins or chameleons? Hybridity as a permanent and inevitable characteristic of the third sector."

<sup>576</sup> Here, Srinath refers to state-sponsored social or developmental services.

<sup>577</sup> Interview no. 22.

practice-academia identity allowed her to speak reflexively about both the NGO sector in India in general, but also about the particularities of CHILDLINE. CHILDLINE's story is indeed, as Srinath's characterisation captures, a story of continuous expansion: a pilot project that rapidly went from being a small initiative for street children in Mumbai to a nationwide government service. But not only does the story – which I will narrate below from CHILDLINE's conception in the early 1990s until 2021 – represent a case of a public-private child rights initiative, it is also paradigmatic of the parallel tendencies in Indian law and policy that were outlined in the previous chapter, namely the proliferation of rights-based laws and schemes for children in India, on the one hand, and the marketisation of rights and development, on the other. The actors who drove CHILDLINE forward were both part of catalysing a rights-based system for child protection in India, and of implementing it as a hybrid organisation in the sense described above.

This section will show that, already from its inception, CHILDLINE represented an overlap of state and civil society and that it has consistently focused on *partnering with* “the system” while at the same time trying to establish itself as *being part of* “the system.” It will also show that the framing of the helpline in rights terms as well as in more corporate “partnership” terms were both politically useful at the time when they developed. For this analysis, I primarily use accounts from people who were central in developing CHILDLINE at various points in time, supplemented by publicly available documents from CHILDLINE India Foundation.

#### 5.2.1. “All social workers go home in the night”

Jeroo Billimoria represents a classic image of a social entrepreneur: a charismatic, fast-thinking and fast-acting academic who believes in founding and scaling up social initiatives, setting them free and then moving on to the next initiative. When I talked to her over a Zoom connection in 2020, she was the busy Director of a new organisation in Amsterdam, and she talked in a social work language highly influenced by the corporate world of business models, management and cost-effectiveness. Thirty years before our interview, at the time when India ratified the UN Convention on the Rights of the Child and when the Indian economy went through liberalisation, Billimoria was a

faculty member at the Tata Institute of Social Sciences (TISS) in Mumbai. It was there and then that she developed CHILDLINE.

“All social workers go home in the night when [children] need them the most.”<sup>578</sup> This was the problem Billimoria wanted to address with a 24-hour helpline. If street children were being abused by police, if they were lost from home, if they needed urgent medical help, many existing services were inaccessible to them. They did not have a safety net. And according to early CHILDLINE publications written by Billimoria’s colleagues, this was a direct result of the liberalisation of the Indian economy:

CHILDLINE began ringing just when India stepped into the era of liberalization. The economy shifted gears to enter a new and unpredictable period in its history, and social security nets were pulled from under the feet of more than half the country’s population, leading to an increase in poverty. Unemployment, rural indebtedness, migration, disaster management, food security, terrorism, and political riots spiralled— all factors that prompt violence and push children into emergency situations. (...) Every call to CHILDLINE is a comment from a child on the state of Global India.<sup>579</sup>

In this quote, we see a direct critique of liberalisation as having caused the problems of street children that CHILDLINE wanted to address. But at the same time, the way to sustainably address these problems, Billimoria argued, was to partner with the state. In collaboration with a group of colleagues, Billimoria began developing her helpline idea as a so-called “field action

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<sup>578</sup> Interview no. 23.

<sup>579</sup> Manisha Gupta and Nicole Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, CHILDLINE India Foundation (Mumbai, 2006), 31, [https://www.childlineindia.org/uploads/files/20200316114027\\_CHILDLINE-Day-Night.pdf](https://www.childlineindia.org/uploads/files/20200316114027_CHILDLINE-Day-Night.pdf) (accessed 11 October 2023).

project” at TISS.<sup>580</sup> A TISS field action project is formally a university-run project, and the idea is similar to what in the NGO sector is known as a “pilot project” or a “demonstration project”: a project infused with the creative energies of entrepreneurial social workers, which aims to demonstrate to the state how a certain societal problem can be tackled. The underlying ideal is that an NGO project is best if it eventually gets adopted by the state. Indeed, TISS takes pride in having founded programmes – including, but not limited to, CHILDLINE<sup>581</sup> – which have later become part of the public institutional structure.<sup>582</sup> CHILDLINE, however, ended up being an example both of this and of the opposite phenomenon, namely of being a government programme that was officially “given back” to NGOs for implementation.

### 5.2.2. A helpline as part of a palette of rights reforms

Although the moment of ratifying the Convention on the Rights of the Child (CRC) was presented to me by a senior employee as the first step in the history of CHILDLINE,<sup>583</sup> for Billimoria the Convention was primarily a lobbying tool. When asked whether it was a factor in developing CHILDLINE, she straight away answered:

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<sup>580</sup> The fact that CHILDLINE was conceived at a university adds another actor to the “partnership” that CHILDLINE represents. Academia is indeed a highly interesting contributor to the development of human rights discourses and partnerships, as we also saw personified by Ingrid Srinath above. TISS itself started as a private institute, but later became a public university. Due to this study’s focus on NGOs and their role in human rights implementation specifically, my analysis will focus on partnerships between the state and civil society. As we will see, TISS was central in developing CHILDLINE, but today, the partnership is primarily a state-civil society partnership.

<sup>581</sup> Other examples of such projects are Special Cells for Violence against Women at police stations and the employing of social workers/counsellors in hospitals and family courts (Tata Institute of Social Sciences, *Prospectus for Master's Degree Programmes 2019-2020* (2019), [https://tiss.edu/uploads/files/Prospectus\\_2019-2020-online-3-6-2019-5pm.pdf](https://tiss.edu/uploads/files/Prospectus_2019-2020-online-3-6-2019-5pm.pdf)). See also [tiss.edu/field-action/projects](https://tiss.edu/field-action/projects) (accessed 11 October 2023).

<sup>582</sup> *Ibid.*, 4. This phenomenon is also well-known outside TISS: For an example of education-related schemes that were initially NGO projects, see Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*, 105.

<sup>583</sup> Field notes, 28 February 2020.

No, not at all. Because signing the CRC was a lobbying tool, it wasn't a theoretical tool. (...) it was a great lobbying tool to be able to say, "okay, you've signed it, these are the articles on child protection and therefore you have to do it." So there's a difference between theory and (...) advocacy, and that was advocacy, not theory.<sup>584</sup>

The "theoretical part" part of developing CHILDLINE refers to the underlying values behind the design of the helpline.<sup>585</sup> The "advocacy part" refers to how to gain political support for the idea, and there was a momentum in the early 1990s because of the signing the CRC, which made it possible to lobby for its implementation. Billimoria's helpline initiative can, thereby, be interpreted as a reflection of what Merry has called the "palette of reforms" that comes into play after the signing of a human rights convention: initiatives such as helplines are part of a "global package" of rights implementation, which then have to be "vernacularised" to fit a national context.<sup>586</sup> Indeed, Billimoria was inspired by what she called the "Western" helpline model – one that provides counselling on the phone – but also found that simply transposing this model would not be adequate to address the problems faced by Mumbai's street children. They would not only need phone counselling, but to be linked to physical social services; an Indian child helpline would need to actively reach out to children to help them and not only wait for the phone to ring.<sup>587</sup>

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<sup>584</sup> Interview no. 23.

<sup>585</sup> The "theoretical part" will not be my focus here. It refers to all the values put into the helpline, such as the value of child participation, especially Billimoria's inclusive consultations with children in designing the helpline. For details, see Jeroo Billimoria, "Genesis of Project Childline (NGO Interventions)," *Indian Journal of Social Work* 58, no. 3 (1997): 457-60; Jeroo Billimoria et al., *Listening to Children: An Overview of CHILDLINE*, CHILDLINE India Foundation (Mumbai, 2001); Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*.

<sup>586</sup> Sally Engle Merry, "Legal Transplants and Cultural Translation: Making Human Rights in the Vernacular," in *Human Rights. An Anthropological Reader*, ed. Mark Goodale (UK: Wiley-Blackwell, 2009), 297.

<sup>587</sup> Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 9-10.

### 5.2.3. The first partners in Mumbai city: NGOs and the police

From the beginning, CHILDLINE was conceived as a “partnership model”: no new infrastructure, such as shelters or hospitals, should be created, and instead the helpline would draw on existing (governmental and non-governmental) infrastructures for children in Mumbai.<sup>588</sup> Through their networks, Billimoria and her colleagues therefore approached a number of NGOs in the city.<sup>589</sup> The idea was that eventually a sufficient number of NGOs would be CHILDLINE partners so that a child anywhere in Mumbai could quickly be provided with the help they asked for on the phone.<sup>590</sup> But not only NGOs, state agencies were also involved “from day one,” as Billimoria put it.<sup>591</sup> She said that she and her colleagues

... launched CHILDLINE with street children and the Police Commissioner of Bombay,<sup>592</sup> having a dialogue on how the police will change. (...). And we had invited all the government officials, because (...) CHILDLINE was *always* visualised as what I call a systems change organisation. So changing the system was the first priority. And the minute we launched CHILDLINE, we started police training to make what we called police *chāchās* or police uncles (...). So it was *never ever* viewed as an NGO model, it was always viewed as an integrated systems model.<sup>593</sup>

As I will return to in later in this chapter, this quote illustrates that CHILDLINE, from the beginning, was envisioned as a service that would work *with* and *within* an existing “system” (a system of NGOs and state departments alike) rather than set up a parallel service system.

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<sup>588</sup> Ibid., 9.

<sup>589</sup> Ibid., 12.

<sup>590</sup> Ibid., 10.

<sup>591</sup> Interview no. 23.

<sup>592</sup> Bombay’s name changed to Mumbai in 1995. I use the official name Mumbai, but some informants use Bombay. For the complex discussion of the history and identity lying behind each name, see Thomas Blom Hansen, *Wages of Violence: Naming and Identity in Postcolonial Bombay* (Princeton: Princeton University Press, 2001).

<sup>593</sup> Interview no. 23.

#### 5.2.4. Launching a toll-free number through rights advocacy

During the first half of the 1990s, most of CHILDLINE's work consisted of preparation, such as compiling a database of NGOs and other agencies working with children, liaising with tele companies, designing an operational strategy, consulting with relevant organisations and with children, and holding training workshops for the police.<sup>594</sup> It was not until 1996 that the service actually launched as the result of years of advocacy, including TISS' Director sending a request to the state telecom department asking for a toll-free number. As a CHILDLINE Anniversary Report commemorates:

It was a simple pitch: the Government of India was a signatory to the UN Convention of the Rights of the Child (1990). As part of its treaty obligations, it was logical that the Department of Telecommunications (DOT) should provide a toll-free number for a child protection service for the country.<sup>595</sup>

TISS got a response in 1996, after which they were allowed to use the toll-free number 1098. On June 20, 1996, CHILDLINE was officially launched as a field action project of the TISS Department of Family and Child Welfare in collaboration with Mumbai-based NGOs.<sup>596</sup> Once the number was allotted, the service began to be implemented in Mumbai according to the city's so-called "telecommunication zones": it was ensured that each zone had a partner organisation – an NGO – that could receive the call. Each of these organisations (known as Collaborative Agencies) then had a number of Support Agencies that they could refer children to. Thus, while CHILDLINE was indeed working within "the system" and not creating any new infrastructure, this system was itself a hybrid, comprised of state and NGOs alike. TISS remained a "facilitative nodal agency."<sup>597</sup> These beginnings of CHILDLINE were marked by entrepreneurial social work and by a utilisation of Mumbai's existing infrastructure for street children. It was, however, only

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<sup>594</sup> Billimoria, "Genesis of Project Childline (NGO Interventions)," 457-60.

<sup>595</sup> Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 12.

<sup>596</sup> Billimoria, "Genesis of Project Childline (NGO Interventions)," 456.

<sup>597</sup> Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 15.

when the central Indian government showed interest in the project that CHILDLINE was able to rapidly scale up.

#### 5.2.5. Interest from the central government

How did CHILDLINE go from gaining some interest from the central government to being written into a national legal act? First, there was pressure on the central government to implement the UN Convention on the Rights of the Child. When India by 1997 had still not submitted its first country report to the UN Committee, NGOs had in their shadow reports complained of a dismal child rights situation.<sup>598</sup> Secondly, privatisation policies encouraged voluntary organisations to be implementers of government schemes. Third, the new Minister for Social Justice and Empowerment, Maneka Gandhi, announced after a visit to the UK child helpline that she would fund CHILDLINE through her ministry.<sup>599</sup> Billimoria remembers Gandhi as someone who was “*really* very good and proactive as a politician”<sup>600</sup> and, speaking in a marketised language, she argued that “[w]e had to prove quickly to the government that CHILDLINE was a cost-effective, scalable model.”<sup>601</sup> CHILDLINE India Foundation was then born as a “separate professional entity” that should implement children’s right to protection.<sup>602</sup> These developments represent the parallel wishes to privatise and to usher in “a spirit of entitlements”<sup>603</sup> which required an accountable state. In 2000, the Indian Parliament adopted the Juvenile Justice Act, a key legislation for bringing the CRC into national law, in which CHILDLINE was mentioned

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<sup>598</sup> Ibid., 21.

<sup>599</sup> Ibid., 21-22.; CHILDLINE India Foundation, *Laying the Foundation: getting started and taking off*, CHILDLINE India Foundation (Mumbai, 2000), 12, <https://www.childlineindia.org/pdf/Laying-The-Foundation.pdf> (accessed 11 October 2023).

<sup>600</sup> Interview no. 23.

<sup>601</sup> Jeroo Billimoria, quoted in Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 23.

<sup>602</sup> Ibid., 22.

<sup>603</sup> Ibid.



by name.<sup>604</sup> CHILDLINE now had a formalised role in the country's legal child protection system.

#### 5.2.6. The honeymoon period between state and civil society

When Billimoria left India in 2002, one of the senior employees who continued at CHILDLINE was Nishit Kumar. I met him in 2020 in his new NGO's offices in Mumbai, where he passionately told me about the heyday of CHILDLINE's relations to the state in the mid-2000s and agreed with his former colleague's characterisation of it as the "honeymoon between civil society and government."<sup>605</sup> We can recall from the previous chapter that this was the time when the National Advisory Council (NAC) was active. For CHILDLINE, one of the most important developments at this point in time was the placement of the helpline under the new Ministry for Women and Child Development (MWCD). CHILDLINE India Foundation now became the "mother NGO" which chose and transferred funds to smaller NGOs, thus firmly establishing the outsourcing model with NGOs acting both as fund disperser, and implementers.<sup>606</sup> Furthermore, CHILDLINE got the opportunity to collect civil society input for India's next Five-Year Plan. Kumar remembers that they suggested the topic child protection, and "[f]rom

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<sup>604</sup> Its mention in the act from 2000 is brief: CHILDLINE has the mandate to produce children before a Child Welfare Committee (Government of India, Juvenile Justice (Care And Protection Of Children) Act, 2000, 32(iii) (New Delhi 2000) [https://www.indiacode.nic.in/repealed-act/repealed\\_act\\_documents/A2000-56.pdf](https://www.indiacode.nic.in/repealed-act/repealed_act_documents/A2000-56.pdf) (accessed 12 October 2023). The mentions of CHILDLINE were expanded to three in the amended act from 2015. It is now mandated that in case of abuse in child care institutions, the Child Welfare Committee shall "give directions to the police or the District Child Protection Unit or labour department or childline services" and that if a child is found without a guardian one shall report it to the police or CHILDLINE (Government of India, Juvenile Justice (Care and Protection of Children) Act, 2015, 30(xvi); 31(iii); 32(1)). These additions signal that CHILDLINE is considered an authority similar to the police.

<sup>605</sup> Interview no. 22.

<sup>606</sup> Field notes, 28 February 2020.; CHILDLINE India Foundation, *Annual Report, 2017-2018*, CHILDLINE India Foundation (Mumbai, 2018), 156, [https://www.childlineindia.org/uploads/files/20200316085621\\_Annual-Report-17-18.pdf](https://www.childlineindia.org/uploads/files/20200316085621_Annual-Report-17-18.pdf) (accessed 11 October 2023).

that point onwards, civil society organisations, particularly CHILDLINE, started working with the Ministry and we built the (...) model of the Integrated Child Protection Scheme, ICPS.”<sup>607</sup> The ICPS launched in 2009 – although Billimoria explained that she had been working on it since 2001, saying that it “takes time before it moves into policy”<sup>608</sup> – with CHILDLINE as an integral part, and it was mandated that the helpline service must be available in all of India’s districts.<sup>609</sup> The relationship between the Ministry and CHILDLINE India Foundation officially became a “partnership wherein both Parties have agreed to work together to pursue a social objective – that of Child Rights and concomitant activities.”<sup>610</sup>

### 5.2.7. Expansion

Over the years, CHILDLINE has scaled up, expanded and professionalised. In 1996, CHILDLINE operated in one district with three NGO partners, in 2010 in 87 districts with 168 NGO partners, and in 2019 in 543 districts with 985 NGO partners.<sup>611</sup> Part of this expansion consisted of opening up regional call centres: Kolkata would service the country’s eastern zone, Delhi the northern, Chennai the southern, and Mumbai the western, with CHILDLINE India Foundation as the national headquarters. Inspired by the rise of call centres in India at the time, CHILDLINE approached the large private tele-companies to get them to partner with the helpline service.<sup>612</sup> With the financial and infrastructural support of Tata Consultancy Services, they set up the call centres, which would serve as a point of contact between

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<sup>607</sup> Interview no. 20.

<sup>608</sup> Interview no. 23.

<sup>609</sup> Government of India, Memorandum of Understanding between Ministry of Women and Child Development and CHILDLINE India Foundation (New Delhi 2011), <http://wcd-icps.nic.in/pdf/MoA/cldtd15022011.pdf> (accessed 12 October 2023).

<sup>610</sup> Ibid., 6.

<sup>611</sup> CHILDLINE India Foundation, *CHILDLINE 1098: A Call Can Change a Life*, CHILDLINE India Foundation (Mumbai), 5, [https://www.childlineindia.org/uploads/files/20200316113233\\_CIF-Report-2019.pdf](https://www.childlineindia.org/uploads/files/20200316113233_CIF-Report-2019.pdf) (accessed 11 October 2023).

<sup>612</sup> Interview no. 20.

the caller and the NGO partners (whereas the calls previously had gone directly to NGO partners).<sup>613</sup> This allowed CHILDLINE to collect data on all incoming calls and become an important knowledge bank on child protection issues across India.<sup>614</sup> Another initiative that expanded CHILDLINE was the opening of Railway helpdesks at train stations. This was the result of a partnership between the Ministry of Women and Child Development and the Ministry of Railways. The helpdesks are manned by staff from CHILDLINE's partner NGOs and respond to the need to help children who travel across states as child labourers, beggars or victims of human trafficking.<sup>615</sup> In 2020, CHILDLINE had helpdesks at 138 railway stations.<sup>616</sup> With these and many more initiatives, CHILDLINE has grown to be India's largest child protection network. As a former employee said, "it was [a] non-profit which wasn't saying, "small is beautiful" (...), it had this larger than life kind of vision to itself."<sup>617</sup>

#### 5.2.8. Shrinking space for civil society

The most recent years of CHILDLINE's history are characterised not only by expansion and professionalisation, but also by the government change in 2014, which was consolidated by the elections in 2019, and the resulting crackdown on many civil society organisations. CHILDLINE India Foundation was never an antagonist to the government. It worked with and within the system. Still, senior staff who worked for CHILDLINE India Foundation around the 2014 government shift experienced changes that are illustrative of a government underlining that, in order for the collaboration to continue, CHILDLINE India Foundation needed to be an organisation it did

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<sup>613</sup> Interview no. 20.

<sup>614</sup> Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 39.

<sup>615</sup> Field notes, 28 February 2020; CHILDLINE India Foundation, *Annual Report 2018-19*, CHILDLINE India Foundation (Mumbai, 2019), 23, [https://www.childlineindia.org/uploads/files/20200316091126\\_childline-india-annual-report-2018-19-eng.pdf](https://www.childlineindia.org/uploads/files/20200316091126_childline-india-annual-report-2018-19-eng.pdf) (accessed 11 October 2023).

<sup>616</sup> Interview no. 24; Field notes, 28 February 2020.

<sup>617</sup> Interview no. 21.

not disapprove of. As such, senior staff and the board had to negotiate the existence of CHILDLINE in a neoliberal and autocratising policy environment while not necessarily approving of it.

Srinath, who was the Executive Director of CIF leading up to 2014, described it as “a time where there was a major crisis in governance in CHILDLINE.”<sup>618</sup> She said that India was undergoing a “transition from a more socialist way of (...) planning (...) into this more neoliberal kind of state,” and she emphasised her main contribution to the organisation as “ensuring that CHILDLINE survived that transition and did not get (...) privatised”<sup>619</sup> – thus conveying a perception that CHILDLINE at the time was very much part of the state. She sought to “preserve budgets,” so the “child protection budget did not decrease,” and through this, “make sure that CHILDLINE remained embedded in the government systems.”<sup>620</sup> She argued that a new kind of neoliberal philanthropy had developed slowly since 1991, but increasingly after around 2010 – a “philanthropy that’s coming from the technology sector, financial services sector, (...) not rights-oriented. It’s much more social enterprise oriented.”<sup>621</sup> Here, Srinath captures the different influences that underpin CHILDLINE’s work: philanthropy, rights, and neoliberal social enterprises, which – as we will see – lead to the overlap of seemingly contradictory values in the organisation.

Srinath also experienced a malfunctioning collaboration between state representatives and civil society representatives during her short time as a Board member of CHILDLINE. The composition of the Governance Board was a combination of state and civil society trustees, and since the Ministry trustees “always operated as a team,” the private trustees felt forced to do the same.<sup>622</sup> At one point, Srinath explained, the government came up with a policy saying that all private Board members had to sign a commitment. In the commitment, it was written that if there was a financial default in

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<sup>618</sup> Interview no. 22. The same story was told by Nishit Kumar (interview no. 20).

<sup>619</sup> Ibid.

<sup>620</sup> Ibid.

<sup>621</sup> Ibid.

<sup>622</sup> Ibid.

CHILDLINE, the Board members would be personally and individually responsible for paying. Since this was unacceptable to the private Board members, the state did not disburse funds to CHILDLINE India Foundation for more than six months. As a result, CHILDLINE India Foundation could not pay out funds to its partner NGOs. According to Srinath, this was a major crisis for the entire service which already operated on a “shoestring budget.”<sup>623</sup> In the end, the entire Board resigned, and a new Board was constituted. Kumar, who continued to work for CHILDLINE after Srinath quit, experienced that “the country changed completely” in 2014: a “new government came in and the new Board came in. And basically they took over operations of CHILDLINE.”<sup>624</sup> Current senior staff would not say as much about this topic as former employees, perhaps indicative of a sensitivity to not critique the state that they collaborate closely with. One, however, did consider that, “child rights is taken as a kind of soft issue. Not like a land rights issue, or (...) [a] human rights issue. It’s a very soft issue.”<sup>625</sup> At the same time, the employee acknowledged that “...if I strain my relation with the Government of India, then it becomes very difficult. (...) So we have to be extremely careful in dealing with the government official[s].”<sup>626</sup> This resonates with the analysis in Chapter 4, which demonstrated that certain rights-based NGOs – those considered “non-political” in the eyes of the state – do not feel as threatened as others. It also underlines the chilling effect that a restrictive government has on NGOs: although CHILDLINE was not doing so-called “political” work, its representatives felt that they had to be very careful to not displease the government.

From the historical overview provided so far, it is noteworthy that the social workers who developed CHILDLINE strategically utilised the momentum of ratifying the Convention on the Rights of the Child to obtain government interest for their project. At the same time, CHILDLINE was both a reaction to and a symptom of liberalisation, as it sought to ameliorate the suffering of street children by tapping into the privatisation and outsourcing tendency of

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<sup>623</sup> Ibid.

<sup>624</sup> Interview no. 20.

<sup>625</sup> Interview no. 24.

<sup>626</sup> Ibid.

the 1990s and by becoming a professional service provider. I have also shown how changes in government affected CHILDLINE India Foundation's relations to the state. I now move on to an analysis of the way in which CHILDLINE today has become part of "the system" and of how it navigates identities between representing the state and representing civil society.

### 5.3. Juggling state and NGO identities

In this section, I discuss the complicated identity juggling that a state-civil society partnership faces. What kind of relationship to the state does CHILDLINE have? Is it a distinct entity or is it part of the state? Beginning with the first question, I show that CHILDLINE is a good illustration of how dual roles of being both a service provision and an advocacy organisation are combined. I discuss the tensions that arise from CHILDLINE simultaneously playing these roles, which demand different kinds of relationships to the state. To answer the second question, I begin by presenting some common perceptions among CHILDLINE's social workers about the dichotomy of state and civil society, showing that such a distinction of ideal types existed in the NGO workers' accounts, and that the two terms were attributed specific virtues and vices. Then I discuss the extent to which CHILDLINE can be characterised as representing civil society and to what extent it is representing state. I provide examples of CHILDLINE being described and acting, at times, as an NGO, and at times, as a direct representative of the state, thus demonstrating that there, in practice, is a thorough entanglement of the two. I then argue that "state" and "government," on the one hand, and "civil society" and "NGO," on the other, comprise a powerful dichotomy, and that it is beneficial for CHILDLINE to draw on opposing virtues from each of these for its own legitimacy as a hybrid organisation. This resonates with Sharma's analysis that while state and non-state sectors are "fused" in semi-governmental welfare programmes in India, "this effort [is] premised on the idea that these two mutually exclusive 'pure' spheres exist in the first place—

‘crossbreeding’ after all assumes distinct breeds.”<sup>627</sup> Sharma’s case study, a semigovernmental women’s rights programme, “attempted to blur and transcend the boundary between state and nonstate arenas, [but] it also concretized that boundary and reified these two arenas as essentially set apart.”<sup>628</sup> I will substantiate this argument of Sharma’s with empirical evidence from CHILDLINE, highlighting that the ideal types of state and civil society – somehow contradictorily – serve to consolidate the hybrid nature of CHILDLINE.

### 5.3.1. Advocacy from within the system

CHILDLINE has had to balance between being the ‘face of the government’ and the ‘voice of its civil society partners’ at every child rights platform. On the one hand, it has represented, and, on the other hand, critiqued state performance in granting rights to every Indian child.

Keeping the two identities aligned has called for some terrific tightrope walking. Consider the jugglery. The government lauded CHILDLINE in its 2000 report to the United Nations Convention on the Rights of the Child (UNCRC), and formalized the status of CHILDLINE in the Juvenile Justice Act of India (2000). Not coincidentally, CIF [CHILDLINE India Foundation] enrolled with the India Alliance for Child Rights at the same time. In 2003, the alliance produced the alternative citizen’s report, Every Right for Every Child, along with 150 CSOs [Civil Society Organisations], movements and child rights institutions. The report, pointed to the various development lacunae in the government policy and identified the major holes in the security nets for the country’s children. It asked the government to undertake more proactive steps to remedy this situation. Managing such contradictions has given CHILDLINE clear insights into working effectively with the government.<sup>629</sup>

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<sup>627</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 68.

<sup>628</sup> Ibid.

<sup>629</sup> Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 50.

The struggle between advocacy and service provision was in this early publication turned into a masterful performance captured by circus metaphors such as “tightrope walking” and “jugglery.” In this section, I ask how CHILDLINE since then has handled the classic NGO dilemma of providing services on behalf of the state at the same time as advocating for laws and state policies to be changed. We saw in the historical overview above that CHILDLINE India Foundation’s advocacy has depended on certain “heydays” or “honeymoon periods” in government-civil society relations, and the above quote is from one of these periods. One informant described CHILDLINE’s identity juggling as both “confusing” but also “good for us,” before adding that it changed around 2009-10, when the government began being a less hands-off partner.<sup>630</sup> In what follows, I will show how its strategies today consist of framing child rights as a “soft” issue and leveraging research, data, and knowledge – rather than for instance protest – as advocacy methods. CHILDLINE India Foundation’s advocacy strategy can be characterised as being of the non-disruptive kind, as it seeks to affect the system from the inside and through collaboration.

Currently, CHILDLINE India Foundation’s main advocacy activity is their collection and use of data as evidence to influence policy. When children call CHILDLINE, a vast amount of “incredible data”<sup>631</sup> is generated: which issues children face, where in India each issue is prevalent, the gender and age groups that are most affected and so on. As Billimoria said, “it was the data from CHILDLINE (...) which helped shape the foundation of the [Integrated Child Protection] scheme.”<sup>632</sup> According to Srinath, this data was what made CHILDLINE India Foundation a credible advocacy organisation.<sup>633</sup> The data is in turn used for advocacy, but not the kind that would threaten the state. Instead, it is used to ask for more funds for service implementation:

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<sup>630</sup> Interview no. 21.

<sup>631</sup> Interview no. 22.

<sup>632</sup> Interview no. 23.

<sup>633</sup> Interview no. 22.



CHILDLINE “can literally present a watertight case, say, ‘when we have more money, this is what we are able to do.’”<sup>634</sup>

Not only at the level of CHILDLINE India Foundation, but also at the level of the NGO partners, was knowledge used as a key product for advocacy. The service implementer/advocacy dilemma is equally present at this level because the partner NGOs are the direct service providers. Jagadish, the Director of the NGO Suraj, sighed when I came from Mumbai and told him what I had learnt about CHILDLINE India Foundation’s impressive advocacy work: “at that level, they get the opportunity to do all that high-level advocacy. At the district level, we only get the opportunity to do intervention.”<sup>635</sup> But when they did do advocacy, it was often in the form of training officials, or “capacity building of duty bearers.” NGOs took pride in having reached the level of being a “capacity building” organisation. As Jagadish argued:

...till the time government is not clear about their duties, they won’t follow. Once they are clear and they have that kind of (...) attitude to change, [then] they accept the changes (...). So when I started working (...), there was no implementation of Juvenile Justice Act, there was no (...) CWC [Child Welfare Committee] procedures, but I trained them.<sup>636</sup>

He here articulates a common perception that the main problem with lack of implementation was the lack of knowledge, not necessarily unwillingness, on the part of state agencies. My point with highlighting CHILDLINE’s knowledge and data resources as advocacy is to demonstrate their “within the system” approach to working with the state. Their strategy was to build credibility with the state at all levels and influence state practices from the inside. As Billimoria said, “if you put an expert who has credibility (...) at the table, the right policy is going to happen. And that’s what we had. We had a seat at the table. That’s it.”<sup>637</sup> She also argued that CHILDLINE was able to work this way because it had grown so big: “as your credibility as an

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<sup>634</sup> Ibid.

<sup>635</sup> Field notes, 16 March 2020.

<sup>636</sup> Interview no. 19

<sup>637</sup> Interview no. 23.

organisation grows and the trust grows, you're able to shape policy without necessarily having to run around."<sup>638</sup> Here, the NGO workers with access to high-level advocacy demonstrate a perception of the state as an ally, albeit one in need of assistance from NGOs who have the necessary knowledge.

In some cases, it was not conflicting or contradictory for CHILDLINE India Foundation to be both a service implementing and an advocacy-based NGO. One senior employee said that there were no serious tensions between CHILDLINE India Foundation and the state, because CHILDLINE had chosen to treat the issue of child rights as an issue that could be approached as a "soft issue."<sup>639</sup> But most employees did see both pros and cons to having to restrict themselves to more "soft" or "within-the system" advocacy:

CHILDLINE is very much written in[to] the legislation, so in that sense (...) it's a way of actually ensuring the state delivers (...). But (...) I think the flipside of that, because it is so embedded in the state and because it is so largely funded by the state, actually prevents CHILDLINE from doing any strong advocacy (...). I mean, whatever advocacy it does has to be more or less direct, you know, lobbying with the Ministry, I mean, CHILDLINE is almost never likely to do any public advocacy because of this very, very close relationship with (...) the Ministry. So (...) it's a kind of a double edged sword.<sup>640</sup>

The fact that there were almost no tensions came at a cost, as a senior employee said:

You can't speak out [about] whatever you want. See, I come from a strong rights-based [background]. But sometimes I have to really, really control [myself]. You can't articulate, you know? Because of your funding, suppose if you (...) strain relations with the Government of India, then you have a problem.<sup>641</sup>

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<sup>638</sup> Ibid.

<sup>639</sup> Interview no. 24.

<sup>640</sup> Interview no. 22.

<sup>641</sup> Interview no. 24.

All the staff I talked to – from senior CHILDLINE India Foundation staff to NGO partners – saw some flaws and tensions in the CHILDLINE model, but ultimately viewed it as a good thing to function as a collaboration between state and NGOs. CHILDLINE India Foundation has chosen an advocacy strategy of making itself *part* of the system – while also maintaining its credibility and image as “civil society.” As I shall argue in the next section, it was important for CHILDLINE’s social workers to highlight a dichotomy between the ideal types “state” and “civil society” to show that they – as representatives of a hybrid organisation – were in the most effective position to bring about social change.

### 5.3.2. Fast, flexible NGOs and bureaucratic, powerful state departments

If CHILDLINE had been controlled by the government, (...) we [would] get a nice salary, sitting in one place, having nice bungalows and those things, [we would] just come, do some work, and go. But here, with the NGOs, we are doing our best.<sup>642</sup>

This social worker expressed a common perception among those I interviewed, from on-the-ground child counsellors to Directors of small and large NGOs, namely that there was an important separation between two sectors of society: the public and the voluntary. This strong separation in the way the two sectors were talked about made their practical hybridity more puzzling. Indeed, when I below argue that within CHILDLINE, civil society and the state have become meshed together to the point of, in many cases, being the same – in CHILDLINE’s own terms – “allied system,” one might wonder what to contrast this observation with. Were the two sectors ever separate? I am not arguing that they were – in fact, they have always overlapped – but instead that we should compare the practical overlap with the way in which people conceptualise the two sectors and attribute opposing

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<sup>642</sup> Interview no. 10.

qualities to them. The posited dichotomy is easy to discern in my interviews with NGO workers:<sup>643</sup>

Table 1. Interviewees' words used to describe the voluntary and public sector

The voluntary sector	The public sector
Field-based	Office-based
Underpaid	Well-paid
Motivated by morals	Motivated by job security and money
Effective	Ineffective
Attentive to need	Needs a push to work
Fast	Slow
Committed	Uncommitted
Uncertain job situation	Job security
Flexible	Bureaucratic
Closer to the people	Authoritative and hierarchical
Low status	High status
Experts	Unaware

One amongst numerous examples of these perceptions was expressed by Bhavesh, a CHILDLINE volunteer: "Officers don't go to the field that much. (...) The government can't help children as much as NGOs can."<sup>644</sup> Or as Radha said: "NGOs work very fast. (...) Like, if CHILDLINE gets a call, then we deal with it immediately. (...) If that call had gone to a government employee, then first he would call another department, then they would call another department."<sup>645</sup> Aditya similarly said that in government offices, work would be postponed to "the next day" or remain "pending."<sup>646</sup> The exception

<sup>643</sup> These words are collected from across all my interviews. As is evident, there is a bias against the state here, as clearly more negative words are being used, most likely since my informants self-identified with the voluntary sector. Still, these types of perceptions about the Indian bureaucracy are very common also outside the voluntary sector. For evidence of this, see for instance Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*; Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*, 8.

<sup>644</sup> Interview no. 14.

<sup>645</sup> Interview no. 3.

<sup>646</sup> Interview no. 7. This resonates strongly with Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*.

that confirms this rule is the one-off morally good bureaucrat highlighted as a rarity by several informants. For instance, one senior CHILDLINE employee, after having argued that NGOs were much more dedicated, said that

...it's not that government officials are not dedicated. There are some extraordinary officials, very sincere, very dedicated (...). We have a mix of it, but in NGO is a kind of... basically, I'm driven by certain values, certain purpose, certain call.<sup>647</sup>

Armed with these perceptions of the two sectors, the social workers were able to explain why it was logical that NGOs were the on-the-ground implementers of a programme like CHILDLINE: they would act fast and go to the field. "What we do in an hour, would probably take one day" for state officials, an informant said.<sup>648</sup> If CHILDLINE had been a pure government programme, according to the informants, it would only do the very minimum.<sup>649</sup> Or as a senior CHILDLINE employee stated:

NGOs primarily don't work for money. (...) the commitment, the mission they (...) believe in, that is a kind of driving force for any NGO, or any voluntary sector. It's not money. (...) Their primary attraction is that they wanted to do something for the society. They believe strongly in a cause. They are passionate about (...) social service. They are passionate about their work. (...) They are very flexible. (...) The government is a kind of system. (...) So you cannot ensure that every official should be committed.<sup>650</sup>

The informants used this separation to argue that the two sectors needed to collaborate through the hybrid make-up of CHILDLINE. Because they represent different virtues, they would work better together. One CHILDLINE team member, when asked who would be best at securing children's rights, held up his hand, spread his fingers and pointed at them one

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<sup>647</sup> Interview no. 24.

<sup>648</sup> Interview no. 5.

<sup>649</sup> Interview no. 4.

<sup>650</sup> Interview no. 24.

by one with the other index finger: only together can we secure children's rights.<sup>651</sup> Another said:

It should be so that everyone works together, NGO, government. So whenever there's a government scheme, and NGOs work with them, then NGOs will help people getting the scheme. They do awareness, like if a new scheme has come out, NGOs do awareness about it, then people can access it. People don't know. The government officers have a lot of limitations, they can't just go [to the field]. Because of NGOs, people become aware about government schemes. When they are aware, they'll access it.<sup>652</sup>

Again, from NGO workers' perspective, the picture of the state as an ally emerges; it is, however, a bureaucratic, slow, unmotivated ally that could only function with the push of NGOs. What is particularly noteworthy about these ideas of two sectors with opposing values is the fact that the same interviewees who expressed it were part of a practice where state and NGOs overlapped constantly. Many of the social workers had ambitions to work in a "government job" themselves, or appreciated working closely with the state. As I will show below, despite the practical overlap of the sectors, it was useful for CHILDLINE to draw on both idealised "NGO virtues," to show their motivation and gain trust, but also on idealised "government virtues," to invoke fear and change in child rights violators.

### 5.3.3. The hybrid organisation that wears different hats

In this section, I discuss exactly how CHILDLINE is a hybrid organisation: it simultaneously identified with, represented, and acted as "the state" and as an NGO. During my field studies, I came across numerous opposing statements of what CHILDLINE was, from "semi-government"<sup>653</sup> to "pure NGO"<sup>654</sup> to "CHILDLINE is (...) run by the Government of India."<sup>655</sup> It

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<sup>651</sup> Interview no. 10.

<sup>652</sup> Interview no. 18.

<sup>653</sup> Interview no. 15.

<sup>654</sup> Interview no. 19.

<sup>655</sup> Interview no. 24.

could be referred to as a “Government helpline”<sup>656</sup> or “a pan-India NGO that works for the welfare of children.”<sup>657</sup> Frontline employees at CHILDLINE benefited from both labels. The NGO label gave them people’s trust in a way that, for instance, the state-run District Child Protection Unit did not have.<sup>658</sup> But when needing to establish authority, it was better to be perceived as an extension of the state. Consider this example of CHILDLINE employees coming back from a case visit where they had to convince parents to send their daughters to a school exam rather than to work in the fields at home:

As they came into the office, Kunal was wearing his CHILDLINE-ID around his neck. “How did it go?” I asked. “Good,” Radha said. The parents had agreed to send the girls for their exam. CHILDLINE would go back on Saturday to see if the girls were actually at school. “But how did you convince them?” I asked. “We need to have attitude,” Radha said. I laughed, as it was hard to imagine sweet, smiling Radha with “attitude.” “But we do have attitude” she continued, “because when someone comes from the government, people get scared and do what you say.” “So you are from the government?” I asked. “Yes,” she said and proudly showed me her CHILDLINE-ID which stated with large capital letters: “Madhya Pradesh Sarkar [government].” “But is this a government job?” I continued, feeling contradicted from a conversation we had had earlier about Aditya looking for a government job

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<sup>656</sup> Navjeevan Express, “CHILDLINE 1098 made over one lakh interventions from May 1 to July 31,” *Navjeevan Express*, 8 August 2020, <https://navjeevanexpress.com/childline-1098-made-over-one-lakh-interventions-from-may-1-to-july-31/#:~:text=CHILDLINE%201098%20made%20over%20one%20lakh%20interventions%20from%20May%201%20to%20July%2031,-by%20Navjeevan%20Express&text=Government%20helpline%20for%20children%20in,t he%20helpline%20said%20on%20Saturday> (accessed 11 October 2023); The Indian Express, “Govt: Childline received 2.39 crore calls since 2018,” *The Indian Express* 2020, <https://indianexpress.com/article/india/govt-childline-received-2-39-crore-calls-since-2018-6600530/> (accessed 11 October 2023).

<sup>657</sup> Rupsa Chakraborty, “Child marriages in Maharashtra surge by 78.3% amid lockdown as families reel under poverty,” *Hindustan Times*, 7 October 2020, <https://www.hindustantimes.com/mumbai-news/amid-covid-19-pandemic-child-marriages-in-maharashtra-surge-by-78-as-families-reel-under-poverty/story-fo3hE2V72Yilj4Gn6wUs0N.html> (accessed 11 October 2023).

<sup>658</sup> Interview no. 11.

because it was more stable than this. “No,” she said. “Is it an NGO job?” I asked. “Yes, NGO job.”<sup>659</sup>

In many ways, the organisation Radha worked for acted as an NGO: it was registered as an NGO, it struggled for funds, it used tried-and-tested NGO strategies such as creating self-help groups, it often went to “the field,” and so on.



Figure 5: Wearing the “NGO hat.” On the way to “the field” to conduct outreach in villages in Madhya Pradesh (photo by the author).

But in other ways, it acted more like an extended state agency: its day-to-day work was to implement the state-sponsored CHILDLINE service, which consisted of routine activities and case work. The bundles of case files and letters in the office gave the impression of a bureaucracy.

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<sup>659</sup> Field notes, 14 February 2019.





Figure 6: Wearing the “state hat”: a bureaucracy doing case work in Madhya Pradesh (photo by the author).

They were even governed by the Right to Information (RTI) Act which applies to all public institutions,<sup>660</sup> meaning that CHILDLINE, down to its partner NGOs, officially represents the state. At the same time, CHILDLINE India Foundation is in a state document described as “an independent, non-governmental, voluntary, organisation.”<sup>661</sup> Most staff thought it was good that CHILDLINE was implemented by NGOs – because of all the NGO virtues described above – and that the only problem was the low pay and lack of security.<sup>662</sup> “Working so closely with the government, it seems like our job is also governmental,” Radha said.<sup>663</sup> Prashant, another CHILDLINE team member expressed it well in an interview:

**Prashant:** CHILDLINE is a government project. It is given to NGOs through funding. NGOs don’t get as much security. They get that in government. They get their salary on time.

**Therese:** Do you think the CHILDLINE staff should also get this security?

**Prashant** [*hitting his chair to underline his point*]: “yes, of course they should! The government has all the facilities.

**Therese:** Why do you think the government gives these programmes to NGOs?

**Prashant:** Because the work will be done properly, with less money, on time, and there will be good results. They don’t have to give permanent salary, just money to a project.<sup>664</sup>

Overall, CHILDLINE staff strategically decided when to present themselves as an NGO, and when as the state, except when it came to issues like their own salary, where they had no choice but being an NGO. This hybrid nature of CHILDLINE resonates with other semi-governmental functions that are

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<sup>660</sup> CHILDLINE India Foundation, “Partnership Agreement between CIF and partner NGOs” (unpublished document. The document is with the author).

<sup>661</sup> Government of India, Memorandum of Understanding between Ministry of Women and Child Development and CHILDLINE India Foundation.

<sup>662</sup> Interview no. 4; interview no. 9; interview no. 13.

<sup>663</sup> Interview no. 3.

<sup>664</sup> Interview no. 13.

integral to the Indian state apparatus.<sup>665</sup> CHILDLINE's on-the-ground NGO staff entangled two identities: representing an extended bureaucracy and an efficient and flexible NGO. But while NGO workers demonstrated agency in negotiating their identities, the state part of the "partnership" showed its inherent power inequalities when it came to their precarious job situation.

In the beginning of this section, I asked what kind of relationship CHILDLINE has to the state and whether it can be considered part of the state. CHILDLINE balances its NGO identity between being a state service provider and a rights advocate through a "soft" advocacy strategy focusing on providing expert knowledge and reliable data. It is a strategy that signals that the state should give CHILDLINE better preconditions to do their service implementing job, rather than that the state itself should offer a child protection helpline. I have, as an answer to the second question, shown that, practically, CHILDLINE represents such a thorough overlap of state and civil society that the distinction between the two sectors is hardly visible. However, CHILDLINE's social workers still find it useful to both draw on "NGO virtues," to show their motivation and gain trust, but also on "state virtues," to invoke fear in child rights violators. In this way, the ideal types of "state" and "NGO" actually helped the informants to conceptualise how child rights responsibilities should be distributed: namely to hybrid organisations like their own. They are employed by a civil society network that works "right inside the belly of the government"<sup>666</sup> and is arguably part of the state's child protection system – a semi-governmental or "NGO-run" bureaucracy, in other words. In the next section, I examine the compatibility of CHILDLINE's two core values – "rights" and "partnership."

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<sup>665</sup> See especially Sharma, "Crossbreeding institutions, breeding struggle: Women's empowerment, neoliberal governmentality, and state (re)formation in India."

<sup>666</sup> Interview no. 21.

## 5.4. A value package of rights and partnerships

In the previous chapter, I discussed the paradox of India being simultaneously a neoliberal and a rights-based state. Within CHILDLINE, this paradox manifests itself with CHILDLINE being committed to the core values of “partnership” and “rights.” Their philosophy is well captured in this quote:

Every child has the right to food, clothing, shelter, self-determination, a family, education and happiness. It is society’s duty to work towards providing these rights. This is the core philosophy that underlies CHILDLINE’s existence and its approach to partnerships. Hence, at every step of the way CHILDLINE has worked towards building bridges with partners. However the emphasis has been on the rights of the child, not on a plea for charity.<sup>667</sup>

Authored by Billimoria and her colleagues in 2001, this quote encapsulates CHILDLINE’s key credo: children’s rights are best fulfilled if all members of society, from individuals to institutions, take responsibility for rights in the form of a partnership. “Partnerships,” which deemphasises the state in a broad appeal to citizens and “stakeholders,” on the one hand, and “rights,” which seeks to strengthen the accountability of the state, on the other, might at first seem like incompatible virtues. But as I will show, the seeming conceptual contradictions of employing these two values together were, in CHILDLINE’s work, overcome as they were merged to one language that appealed to the civic duty and social entrepreneurship of all concerned citizens, for the ultimate benefit of marginalised children. The underlying assumption was that partnerships between the public and private sectors would lead to joint responsibility<sup>668</sup> and feelings of joint ownership,<sup>669</sup> which in turn would provide children with a “better childhood”<sup>670</sup> where their rights

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<sup>667</sup> Billimoria et al., *Listening to Children: An Overview of CHILDLINE*, 34.

<sup>668</sup> CHILDLINE India Foundation, *Cross connections: the partnership model of CHILDLINE India*, CHILDLINE India Foundation (Mumbai, 2002), 5, [https://www.childlineindia.org/uploads/files/20200316113838\\_Cross-Connections.pdf](https://www.childlineindia.org/uploads/files/20200316113838_Cross-Connections.pdf) (accessed 11 October 2023).

<sup>669</sup> CHILDLINE India Foundation, *Laying the Foundation: getting started and taking off*, 50.

<sup>670</sup> CHILDLINE India Foundation, *Cross connections: the partnership model of CHILDLINE India*, 5.

were fulfilled. I argue that CHILDLINE employs this combined value package because it is judged to be the best way to ensure effective rights protection in a context where most social workers perceive the state to be a “decent” legislator, a potential ally, but bureaucratically slow, unwilling to implement laws, and at times corrupt, and therefore in need of partnering with a more efficient and morally just civil society sector. To achieve effective rights protection, CHILDLINE tapped into the “rights-based approach” trend in the NGO sector as well as the neoliberal “partnership of stakeholders” language – two languages that capture the neoliberalism-rights paradox that was discussed in Chapter 4. Before I describe the two values in detail, I will demonstrate why CHILDLINE’s values matter: as a national network, CHILDLINE is a “value spreader” of national importance.

#### 5.4.1. Spreading values “like McDonalds or Dominos”

During my first field study with a CHILDLINE NGO, I went on a day trip with my new colleague Radha and her family to a tourist attraction a couple of hours drive away. On the way, when we were driving through a landscape with few houses and a single school seemingly in the middle of nowhere, Radha suddenly and excitedly pointed out the window: a large “CHILDLINE – 1098” sign was spread across the school’s façade. It occurred to me how ingenious it was to have so many NGO workers across the country being engaged in one brand and feel ownership and pride towards it.<sup>671</sup>

In this part, I argue that CHILDLINE’s ability to spread values stems from having a large network or “group of believers”<sup>672</sup> who transmit the same ideas through various training sessions and awareness activities, what I will characterise as a “homogenisation of difference”<sup>673</sup> through an NGO network in the next chapter. Furthermore, there is a clear connection between “values”

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<sup>671</sup> Field notes, 22 April 2019.

<sup>672</sup> David Mosse, *Cultivating Development: an ethnography of aid policy and practice* (London: Pluto Press, 2005), 172.

<sup>673</sup> Merry, “Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization.”

and “brand” in CHILDLINE: the values of “partnership” and “rights” were key parts of the CHILDLINE brand.

Having a “brand” can in itself be seen as part of the marketisation tendency of NGOs that have to corporatise in order to get funds. As recognised by Child Helpline International (an global organisation for child helplines, founded by Billimoria):

For a national level helpline, it is important to establish a brand image of the helpline. Just like any product or a company is associated with a logo and consistent quality, every child and every concerned person must identify with one logo, one name and one colour scheme of the Child Helpline, to know that it stands for child protection! Awareness strategies are therefore geared to build this brand image amongst children and concerned adults.<sup>674</sup>



Figure 7: Spreading the brand – CHILDLINE wall painting at a social work college in Indore, Madhya Pradesh (photo by the author).

<sup>674</sup> Child Helpline International, *Frequently Asked Questions on Child Helplines*, Child Helpline International (Mumbai, 2003), 22, <https://www.childlineindia.org/pdf/FAQs-Child-Helpline.pdf> (accessed 11 October 2023).

The most characteristic part of CHILDLINE's brand is a green logo with a smiling child calling 1098. But there is more to the brand than that. In fact, when an NGO signs a Partnership Agreement with CHILDLINE India Foundation, they agree to represent a long list of brand properties which are owned by CHILDLINE India Foundation as trademarks.<sup>675</sup> The partner NGOs represent not the organisation CHILDLINE India Foundation, but the brand CHILDLINE, which in short is described in this way:

CHILDLINE India is a nationwide tele-helpline, using the 4 digit toll-free 24-hour number 1098, which links children in distress to services and organisations that can provide care and protection to children. The sum total of services offered to the very child seeking such help via a 1098 phone call is the CHILDLINE service.<sup>676</sup>

CHILDLINE operates as a “brand add-on model” which means that each NGO partner keeps its own identity, but gets an “add-on” in the form of the CHILDLINE brand.<sup>677</sup> The brand lets the NGO partners describe themselves as a “government partner,” which gives them much more legitimacy with local state agencies and beneficiaries than they would otherwise have had. In exchange for this brand, the NGO partners have to comply with some uniform standards that are replicated in all the sub-contracted NGOs. These standards are not only about procedures and documentation, but also about values. When a new NGO becomes a CHILDLINE partner, its staff receives comprehensive training with a goal of “internalising” CHILDLINE's concept and credo.<sup>678</sup> This link between the brand and values is explicit in the Partnership Agreement between CHILDLINE India Foundation and its NGOs: “CHILDLINE India (...) has created for itself a unique and differentiated set of values and associations amongst various stakeholders for

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<sup>675</sup> CHILDLINE India Foundation, “Partnership Agreement between CIF and partner NGOs” (unpublished document. Document is with the author).

<sup>676</sup> Ibid.

<sup>677</sup> Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 60.

<sup>678</sup> CHILDLINE India Foundation, *Laying the Foundation: getting started and taking off*, 43; 61.

child protection in India.”<sup>679</sup> The brand add-on model was, according to a senior employee at CHILDLINE India Foundation, “like McDonalds and Dominos”: there is a recognisable brand, a recognisable procedure, and a recognisable approach in diverse contexts.<sup>680</sup>

The power of the network of child protection professionals that this brand add-on model created was not unnoticed by senior employees at CHILDLINE India Foundation. It was described as a network “with no equivalents,”<sup>681</sup> and “the largest network of networks.”<sup>682</sup> As Kumar stated, “With the [NGO] partners (...) and the training from CIF [CHILDLINE India Foundation], you soon had some twenty thousand people [in] the field who were trained (...). Which country has such a network of trained people?”<sup>683</sup> A vast NGO network is arguably what makes the CHILDLINE values able to spread and consolidate. This happens both deliberately through training sessions and by the intangible creation of a “group of believers” in a cause,<sup>684</sup> as illustrated by Radha’s pride when seeing the CHILDLINE banner on a countryside school unknown to her. Importantly, the “cause” included the values of “rights” and “partnerships.” As written in an early CHILDLINE publication, “CHILDLINE is a catch all partnership. (...) It trickles down through layers within layers of the Brand Add-On net.”<sup>685</sup>

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<sup>679</sup> CHILDLINE India Foundation, “Partnership Agreement between CIF and partner NGOs” (unpublished document. Document is with the author).

<sup>680</sup> Field notes, 28 February 2020. The struggles that the NGOs face between their own values and identity, on the one hand, and that of CHILDLINE, on the other, will be examined in depth in Chapter 6.

<sup>681</sup> Interview no. 22.

<sup>682</sup> Interview no. 21.

<sup>683</sup> Interview no. 20.

<sup>684</sup> Mosse, *Cultivating Development: an ethnography of aid policy and practice*.

<sup>685</sup> Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 61.



#### 5.4.2. CHILDLINE's partnership philosophy: "the backbone of its existence"<sup>686</sup>

Within the CHILDLINE network, "partnership" refers both to the legal set-up of the helpline and to a strategy of appealing to a number of actors – NGOs, academic institutions, companies, "the community" and children – to be engaged in CHILDLINE's work as "partners." Formally, as described above, CHILDLINE is a "state-civil society partnership" between the Ministry of Women and Child Development and CHILDLINE India Foundation.<sup>687</sup> Other official partners represented on CHILDLINE India Foundation's Governing Board are corporate partners, academic institutions, and other civil society organisations.<sup>688</sup> Implementing NGOs are referred to as "NGO partners" and are arguably the most active on-the-ground partners that the helpline service depends on. They are the ones who physically visit or rescue the children in need of help, manage cases, connect children to the correct state agencies, and conduct local awareness activities. The idea behind engaging NGOs as the frontline partners is, as explained in Billimoria's corporate terms, "basic management": each actor should do what they are best at, and NGOs are best at being close to the beneficiaries.<sup>689</sup> The NGO partners are pre-existing organisations that are often already engaged in other projects through other – foreign, state, or private – funding. To become an NGO partner, one needs to win a tender arranged by CHILDLINE India Foundation and the District Magistrate in a given town. The NGOs are chosen on the basis of a number of criteria, such as working not-for-profit, having previously worked with children's rights, their network with local state

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<sup>686</sup> CHILDLINE India Foundation, *Cross connections: the partnership model of CHILDLINE India*, 9.

<sup>687</sup> Government of India, Memorandum of Understanding between Ministry of Women and Child Development and CHILDLINE India Foundation.

<sup>688</sup> CHILDLINE India Foundation, "Governing Board," n.d., <https://www.childlineindia.org/a/about/governing-board> (accessed 11 October 2023).

<sup>689</sup> Interview no. 23.

agencies, and financial credibility.<sup>690</sup> Once chosen, they sign a renewable three-year Partnership Agreement with CHILDLINE India Foundation.

While the Ministry of Women and Child Development is the legal state partner, it is up to CHILDLINE India Foundation and their NGO partners to obtain good relations – and “partner” – with the rest of the bureaucracy or “the system.” In CHILDLINE lingo, the shorthand for this long list of “systems that a child comes in contact with” is “Allied Systems.”<sup>691</sup> This includes “the Police, Health Care Organisations, Educational Institutions, Transport Undertakings, Telecom, Media and NGOs.”<sup>692</sup> CHILDLINE India Foundation’s annual reports are full of with pictures of “stakeholder meetings,” handshakes between state representatives and CHILDLINE personnel, and other evidence that partners from different sectors have met under the umbrella theme of child rights and child protection. It is not crucial to CHILDLINE India Foundation whether they collaborate with someone with a state label or not, but rather to partner with all actors that may have a stake in child rights. This suggests that CHILDLINE perceives the primary duty bearers to be a “system” – a system which in itself is a hybrid between state and civil society – while their own role is to link, facilitate, and make sure the system works. For example, consider how Jagadish, Director of the CHILDLINE partner NGO Suraj, teaches a new CHILDLINE District Coordinator, Sonali, how to do her job:

Jagadish went to the district map hanging on the wall and said, “you have to find the police station here – here – here” (pointing out different places on the map) “talk to them all. It is important that people know your name. You have to go to the Tribal Department, to the Panchayat Department, the Social Justice Department, ICPS [Integrated Child Protection Scheme]...” “There is ICPS here too?” Sonali asked. “ICPS is a national scheme created to integrate all child protection services. Of course it is here too, you should know this,” Jagadish said. He began drawing on a piece of paper, surrounded now by both me, Sonali and Pradeep. He wrote “CHILDLINE” and then all

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<sup>690</sup> CHILDLINE India Foundation, *Laying the Foundation: getting started and taking off*, 93.  
Interview no. 24; Interview no. 20.

<sup>691</sup> Child Helpline International, *Frequently Asked Questions on Child Helplines*, 10.

<sup>692</sup> CHILDLINE India Foundation, *Annual Report 2018-19*, 20.

the other departments he had mentioned around it. “You have to map out the entire support system for children, according to everyone’s duty. Only when you know everyone’s role, we can find the gaps. Where there is no coordination yet, we step in.”<sup>693</sup>

This illustrates that CHILDLINE’s NGO partners do not automatically become part of a local child protection system when they initiate in a new town, but have to integrate themselves into it. It is also an example of how CHILDLINE works within and with “the system,” not parallel to or against it. Indeed, getting the attention and recognition of the “allied system” was key for CHILDLINE’s practice.

CHILDLINE’s partnership philosophy does thus not only mean that it is legally a state-civil society partnership, but also reflects its values and strategies of engaging as many people and sectors as possible in child rights advocacy and duty bearing. CHILDLINE also seeks to bring in the perspectives of children, building on an early CHILDLINE motto of “Listening to Children” and the more explicitly rights-based value of “child participation.”<sup>694</sup> They also work with the category of the “concerned adult.”<sup>695</sup> As CHILDLINE India Foundation writes, “observant and concerned individuals have been the first to report abuse or violence in their neighbourhood.”<sup>696</sup> CHILDLINE’s Instagram posts are full of appeals to concerned adults, such as “Call 1098 now if you see any child engaged in child labour in your neighbourhood.”<sup>697</sup> Behind the idea of engaging “concerned adults” is a belief in strengthening

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<sup>693</sup> Field notes, 16 February 2019.

<sup>694</sup> Gupta and Menezes, *CHILDLINE Anniversary Book - 1098 CHILDLINE: Night & Day*, 14.

<sup>695</sup> See for example Billimoria, “Genesis of Project Childline (NGO Interventions),” 463; CHILDLINE India Foundation, *Laying the Foundation: getting started and taking off*, 75; CHILDLINE India Foundation, *Recording children’s concerns: documenting CHILDLINE*, CHILDLINE India Foundation (Mumbai, 2001), 74, <https://www.childlineindia.org/pdf/Documenting-Childline.pdf> (accessed 11 October 2023).

<sup>696</sup> CHILDLINE India Foundation, *Cross connections: the partnership model of CHILDLINE India*, 21.

<sup>697</sup> Examples are from the Instagram account @childlineindia1098, all posted in 2020.

civic participation and civic responsibility more broadly.<sup>698</sup> A good example of the strategy of engaging all “concerned adults” is “CHILDLINE Se Dosti” (“Friendship with CHILDLINE”), a large annual awareness programme coinciding with the International Child Rights Day. CHILDLINE Se Dosti aims at making “ordinary citizens key stakeholders in the child protection process (...) in the hope of encouraging them to become proactive and take the necessary action in reducing the vulnerability of children at risk.”<sup>699</sup> Making “friends” is symbolic of engaging everyone in rights protection instead of blaming anyone for rights violations. It is not about demanding accountability from the state, but rather about making everyone in their individual capacity – including, but not limited to, state officials – commit to caring about children.<sup>700</sup>

In sum, CHILDLINE’s partnership philosophy espouses collaboration across public and private sectors – especially between NGOs and the state – and appeals to the responsible citizen, the responsible officer, and the responsible child. The organisation values a hybrid model between state and NGOs. The state and its bureaucracy are actors in this partnership, but they are not more central than other actors, as it is considered more important to engage society in a holistic way than to appeal primarily to the state. However, when it comes to CHILDLINE’s second core value – working rights-based – the appeal to the state becomes more clear.

#### 5.4.3. “The government makes acts, CHILDLINE gives children their rights”: A rights-based approach in discourse and practice

Like many other Indian NGOs, CHILDLINE tapped into the “rights-based” trend after the adoption of the Convention on the Rights of the Child. The Convention

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<sup>698</sup> CHILDLINE India Foundation, *Annual Report 2018-19*, 23.

<sup>699</sup> *Ibid.*, 72.

<sup>700</sup> I am not claiming that this view is unique to CHILDLINE. On the contrary, I argue that CHILDLINE represents a common NGO approach.

...transformed work with children in India in the eighties and nineties. (...) A lot of organisations (...) were working with children but didn't have a common framework (...). Providing a national framework, much like the SDGs [Sustainable Development Goals] are doing now, (...) allows us all the pieces put together, it gives you a new language (...) to do the advocacy around, to even design programmes around.<sup>701</sup>

Today, CHILDLINE India Foundation is formally “a child protection organisation using a rights-based approach.”<sup>702</sup> It is consistently, also by outside actors such as the state and the UN Committee on the Rights of the Child, referred to as a service based in the rights of children.<sup>703</sup> To most employees, the mention of “rights” lead their associations to two things: first, the four core rights of the child from the Convention (survival/life, development, protection, and participation); and second, the duty of the state. As Srinath said, a rights-based approach is meant “to ensure that (...) there's a corresponding duty bearer. And (...) the duty bearer is the state. And the state has the responsibility to uphold those rights and it isn't something that should be left to chance or charity.”<sup>704</sup> These understandings are similar to the state-centred rights language that we encountered in Chapter 3, and are clear examples of Haslanger's “public” or “manifest” concepts – i.e. the formal or official conceptualisations, which change when we move to the operative or practiced conceptualisations.<sup>705</sup> If we focus on the practical work of CHILDLINE and especially the partner NGOs, a rights-based approach meant something else than in the formal definitions.

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<sup>701</sup> Interview no. 22. For more on the trend of rights-based approaches in Indian NGOs after the Convention, see Balagopalan, “The politics of failure: street children and the circulation of rights discourses in Kolkata (Calcutta), India,” 138.

<sup>702</sup> Interview no. 20.

<sup>703</sup> Government of India, National Plan of Action for Children, 108; United Nations Committee on the Rights of the Child, “Concluding observations on the combined third and fourth periodic reports of India,” paras. 53-54.

<sup>704</sup> Interview no. 22.

<sup>705</sup> Haslanger, “What Are We Talking About? The Semantics and Politics of Social Kinds.”



Figure 8: The four rights of the child (right to survival, development, protection and participation) combined with India's "save the girl child, educate the girl child" campaign, depicted in a District Child Protection Unit in Madhya Pradesh (photo by the author).

In the everyday life of a CHILDLINE NGO partner, working "rights-based" did not primarily mean to seek accountability from the state, but rather to implement the rights that the state had committed to on paper but not fulfilled in practice. This "paper," as we saw in the previous chapter, was the sum of a number of legal acts, such as the Right to Education Act and the Child Marriage Act. In the CHILDLINE office that I worked in, the acts were physically spread around on shelves and tables, ready to be consulted.



Figure 9: National child protection legislation being used in an NGO office in Madhya Pradesh (photo by the author).

A quick flip through the office's Case Register testified to the continuous use of provisions from the acts. It was, for instance, common that a child had gained school admission "through RTE" [Right to Education]. Or as the team member Radha told me: "Recently, we had this girl's case. Her father did her wrong [*galat kām*, in this case meaning "sexually abused her"]. And in this case, I knew that if we applied the POCSO [Protection of Children from Sexual Offences] Act, he would get caught so the child could get justice."<sup>706</sup> Furthermore, the acts were a topic of awareness in themselves, because children needed to know about the law. Consider for instance this excerpt from an awareness session where Sonali, a CHILDLINE staff member, taught a school class of girls about child marriage (where we also, again, see the appeal to responsible children):

"What's the minimum age for marriage?" "18 years!" the girls yelled in unison. "And boys?" Sonali asked. "21 years!" they yelled. Sonali continued: "What if the boy is 20 and the girl is 18?" Some girls looked nervously at each other, was this a test? "It's child marriage!" Sonali asserted. "And child marriage is a crime! What do you do if you know someone getting married too early?" "Call!" the girls answered.<sup>707</sup>

The acts were also used to gain credibility as child protection experts when liaising with state representatives. If the NGO staff knew the act provisions, they would be taken seriously. Furthermore, they were reference points when convincing families, shop owners or other "violators" that they could get punished for e.g. arranging a child marriage or hiring child labour. As Sonali said about child marriage cases:

People will call about a marriage (...) that is coming up. When we go, there's a lot of tension, the family is afraid: what will people say if they cancel the wedding? We tell about the legal act, they get worried, we tell about the fine, we make them sign a paper that they will not get married.<sup>708</sup>

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<sup>706</sup> Interview no. 3.

<sup>707</sup> Field notes, 7 February 2019.

<sup>708</sup> Interview no. 1.



Overall, the acts were extremely important in CHILDLINE's everyday work. They officially defined rights violations, they gave the helpline legitimacy as an extended state implementer, and they laid the ground for the mediating role between families and the state that CHILDLINE played. As a CHILDLINE District Coordinator said: "The government makes acts. CHILDLINE (...) give[s] children their rights."<sup>709</sup>

With all of this, I want to highlight the clash between a formal understanding of a rights-based approach, where the state is the primary duty bearer, and the partnership values and outsourcing practice of CHILDLINE, which demands a different kind of rights-based approach. Concepts are shaped through their practical use, or as Haslanger puts it, concepts "do their work" in a social matrix.<sup>710</sup> Therefore, in the descriptive and explorative conceptual analysis that I do, the practice of duty bearing is a core part of the conceptualisation. In practice, in the case of CHILDLINE, the understanding of a rights-based approach was one in which NGOs assist the state in implementing legislation. It was not an approach that primarily demanded accountability from the state, but rather one that filled gaps in the state's rights implementation. And that kind of rights-based approach is easy to merge with a partnership approach, thus giving rise to a different conceptualisation of duty bearing than the hegemonic one. I will return to the implications of this in Chapter 7.

Thus far, I have demonstrated that CHILDLINE combines the values of "partnership" and "rights," which are spread, together with other values, as part of a "value brand" across a large NGO network. I have also shown that CHILDLINE did not treat these two values as contradictory, because it operates with a rights-based approach that does not emphasise the state as the only, or even main, duty bearer. Rather, CHILDLINE's NGO partners worked in a context where government departments rarely automatically take their full responsibility, and therefore CHILDLINE steps in to connect and educate. The rights-based approach is thus primarily one of ensuring that "on paper" laws become *de facto* laws. Engaging "all sectors" is hence a useful

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<sup>709</sup> Interview no. 4.

<sup>710</sup> Haslanger, "What Are We Talking About? The Semantics and Politics of Social Kinds."

strategy. In the next section, I develop the theme of responsibilities for rights in CHILDLINE's partnership model.

## 5.5. Conceptions of responsibility for rights in a state-NGO partnership

So far, I have analysed the history, identity, and values of CHILDLINE. The overarching theme has been how state and civil society actors overlap in CHILDLINE's model, and where and in what ways the values of "rights" and "partnerships" are used together. This final section is focused on the notion of responsibility, because that is where the most significant potential tension and incompatibility between the "rights" and "partnership" approaches arise. In partnerships, responsibility is per definition divided across partners, but within the hegemonic version of the rights-based approach, NGOs should appeal to the specific obligation of the *state* to be responsible for its citizens' rights. I will demonstrate how part of CHILDLINE's philosophy was indeed to make the state take more responsibility, but the philosophy also carried with it an acknowledgement that the state alone will never be enough. There is thus a need for partnerships in general, for NGOs specifically, and for engaged and responsible citizens. In this way, CHILDLINE simultaneously speaks the hegemonic human rights language that posits states as human rights duty bearers, but also offers a more pragmatic alternative, since calling on "everyone" was believed to be more effective for actually protecting children's rights. CHILDLINE's appeal to the duty of responsible citizens and to partnerships between all "stakeholders" suggests a meaning of child rights duties that is not state-centred, but rather one that is based in civic duty. I below share concrete examples of how CHILDLINE's social workers conceptualised responsibilities for rights as a partnership between sectors and as citizen duties. This demonstrates the ease with which the values of partnerships and rights can be interwoven in practice, resulting in an overlap of ideals and values – what at first seems like a messy mix of values, is really, I argue, an active and alternative conceptualisation of human rights duties.

Within scholarly work on human rights, as we saw in Chapter 3, duty bearing is a key term that has been discussed at length. It is for many theorists an integral part of the definition of a human right. When we talk about responsibilities within a partnership between the public and the voluntary sector, however, we do not necessarily refer to duties in this sense. My intention here is not to conflate any “responsibility” reference from my ethnographic material with duties in the human rights sense. Rather, it is to analyse how the understanding of responsibility in a partnership discourse affects the understanding of responsibility in a rights discourse. NGOs have themselves adopted a “duty bearer” language, and the way they interpret this language is significant. Therefore, much of the section below is dedicated to people who work in this type of partnership and their perceptions of responsibility. I am less interested in CHILDLINE’s legal set-up – which as an agreement between the Ministry of Women and Child Development and CIF, as well as agreements between CIF and its partner NGOs, can be characterised as an outsourcing model – than in the perceptions and actions of the people who actually populate this model. In other words, I am not investigating whether the model complies with international human rights conventions, but explore what specifically happens to ideas of responsibility on the ground in such an outsourcing model. Ideas about rights-corresponding responsibilities, akin to how ideas about rights often have been, will here be analysed in their semi-governmental, contested, and changing use.

### 5.5.1. Speaking the human rights language of state obligations

Officially, in public documents, CHILDLINE India Foundation subscribes to the hegemonic human rights language of state responsibility for rights or, in Haslanger’s terms, this is their public or manifest conceptualisation of duty bearing. For instance, a handbook on child protection states that the “government has the responsibility to make sure Children’s rights are protected.”<sup>711</sup> The handbook refers to the articles in the Convention on the

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<sup>711</sup> CHILDLINE India Foundation, *The Essentials of Child Protection: A Handbook for Beginners*, CHILDLINE India Foundation (Mumbai, 2008), 14, <https://www.childlineindia.org/pdf/Essentials-of-child-protection-Oct-08.pdf> (accessed 11 October 2023).

Rights of the Child that establish this international obligation upon India.<sup>712</sup> When it came to interviews with employees, they would not, however, refer to international obligations, but rather to specific state departments, when asked about who was primarily responsible for children's rights.<sup>713</sup>

But interviewees would not stop after listing state departments. It quickly became evident that the informants' everyday or operational conceptualisation of duty bearing was different from their "official" conceptualisation. It was never "only the state," but rather "also the state" or "ideally the state." Consider for instance how this employee went quickly from assigning all responsibility to the state, to arguing that there could be no such clear lines and that civil society had important roles to play:

I think at the end of it the state is the duty bearer. There's no questions asked. But at the same time, if you take on such kind of (...) demarcated lines in a country where (...) systems haven't been drawn and fallen or placed, (...) you may lose out. And the role of civil society is definitely (...) to critique, to articulate, to voice concerns, to provide expertise and (...) advocate, knowledge building, and of course (...) some amount of, I guess, help the government in implementation, in service delivery which is what the government really looks at civil society for. Or non-profits for. We are really looked at as implementers.<sup>714</sup>

Such sentiments were common among interviewees: beginning with the state, but then arguing why it was not enough. Some interviewees expressed that if only the state was doing its duty properly, then there would be no need for NGOs.<sup>715</sup> As one CHILDLINE team member said: "Of course the

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<sup>712</sup> Ibid.

<sup>713</sup> These could be, for instance, the Child Welfare Committee (Interview no. 5; Interview no. 14; Interview no. 19; Interview no. 22), the District Magistrate (Interview no. 19), the Juvenile Justice Board (Interview no. 22), the police (Interview no. 5), the Labour Department (Interview no. 5), elected representatives such as Panchayats (Interview no. 1; Interview no. 6), Anganwadis (centres for mothers and babies) (Interview no. 1; Interview no. 15), or the Department of Women and Child Development (Interview no. 14).

<sup>714</sup> Interview no. 21.

<sup>715</sup> Interview no. 10.

government has responsibility! But the government is not doing it.”<sup>716</sup> The state’s responsibility was expressed as something that “should” be there.<sup>717</sup> And even if NGO staff believed that the state *should* take responsibility, it was not assumed that they would do it. CHILDLINE’s story is rather one of making sure the government delivers what they are supposed to deliver, as one interviewee expressed it.<sup>718</sup> The partner NGOs similarly made strategies of *how* to engage duty bearers rather than assuming that they would take responsibility by themselves. In sum, the view that a duty for a right equals an obligation on the part of the state was indeed subscribed to by CHILDLINE employees and in public CHILDLINE India Foundation material, but the state’s responsibility was seen as an ideal responsibility, not a realistic one. Realistically, it needed a push by partnerships, NGOs, and engaged and responsible citizens. This is a clear example of how the semi-governmental landscape to which CHILDLINE belongs combines elements from the hegemonic and vernacular conceptions of human rights, and how it embodies a co-existence of ideas: its staff ascribe *both* to the idea of the state as the duty bearer *and* to an idea that the state is never enough. This co-existence of ideas is, again, testimony to the fact that concepts do not float around in a disconnected fashion, but are part of a “social matrix” of history, practices and power relations.<sup>719</sup>

### 5.5.2. Sharing responsibility in partnerships

In the same CHILDLINE India Foundation handbook on child protection that adopted the state-centred human rights language, there is a quiz that social workers can do with children. The social worker is supposed to ask the child “What do children need?” and then “Who is responsible to provide these needs?” Sample answers to the second question are “Parents, family, community, Non Government Organizations, local administration, Govern-

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<sup>716</sup> Interview no. 12.

<sup>717</sup> Interview no. 7.

<sup>718</sup> Interview no. 22.

<sup>719</sup> Haslanger, “What Are We Talking About? The Semantics and Politics of Social Kinds.”

ment.”<sup>720</sup> This perception – that virtually everyone and anyone in society are responsible for children’s needs – is a key part of CHILDLINE’s partnership approach, as we have seen in previous sections. In this model, a partnership divides and distributes responsibility according to which actor is best at each step in a child protection case.

This reflects the belief that child rights are best fulfilled through a “multi-sectoral approach,” as expressed by a participant in a civil society webinar on child rights in India (organised by a network in which CHILDLINE partner NGOs are also part). He argued passionately:

We who work with child rights, we feel that it’s only our responsibility. But child protection is not the responsibility only of those NGOs or those people or those stakeholders whose fulltime mandate is child rights. (...). I think that (...) we need a multi-sectoral approach. (...) VLCPC [Village Level Child Protection Committee] and Ward LCPC [Level Child Protection Committee], our elected representatives, ward level and panchayat, it is time we start involving them and telling them: child protection is your responsibility as well. I don’t find them thinking that protection of children violations is their responsibility.<sup>721</sup>

In practice, of course, a partnership requires a tremendous amount of collaboration between a myriad of departments and organisations which is rarely realistic. During my time at a CHILDLINE partner NGO, they had several cases where this collaboration did not go as smoothly as one could hope. For instance, one case concerned Mamta, a girl who did not fit neatly into a “category”: she had mental health challenges, her age was uncertain, she was pregnant, lost from home, and a survivor of sexual abuse and violence. Her case was juggled between CHILDLINE, the police, and the One Stop Centre (a state-sponsored shelter for battered women). None of these “partners” considered themselves as having primary responsibility for Mamta. Over the days when the case was most intense and I followed it through my colleague Radha, I observed how Radha got called up by the Child Welfare

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<sup>720</sup> CHILDLINE India Foundation, *The Essentials of Child Protection: A Handbook for Beginners*, 10.

<sup>721</sup> Participant at civil society webinar, 11 September 2020.

Committee, the One Stop Centre, and the District Child Protection Officer, all asking for CHILDLINE to take the case, despite it having been established through a medical examination that Mamta was nineteen years old and therefore officially not a child. As Radha noted one evening when cleaning up after dinner, “if the departments don’t collaborate, what can we do?”<sup>722</sup> Mamta’s case demonstrates that the practical identification of an actor responsible for a specific child is not always easy to determine when there are many departments and organisations who, on paper, work in “partnership.” It also shows that at the district level, the state did not only manifest itself to NGO workers as an ally, but also as a reluctant bureaucracy unwilling to take its responsibility.<sup>723</sup>

The understanding of child rights duties as a “partnership” meant that a model like CHILDLINE, no matter how much it emphasises partnerships with other sectors, is particularly dependent on the voluntary sector. In practice, responsibility for the rights of the children who come into contact with CHILDLINE is divided across government departments, NGOs and semi-governmental services like CHILDLINE, but the “glue” that is needed for all this to function is the alertness of NGO workers. Consider this statement from one of CHILDLINE India Foundation’s handbooks:

A child has rights, but due to age constraints is unable to claim her/ his rights. The rights of a child are exercised by proxy through the family, society and State. Unfortunately, these very agencies are responsible for violating children’s rights. Non-governmental organisations, therefore, play a vital role in protecting and promoting the rights of children.<sup>724</sup>

This statement justifies the existence of NGOs as the most morally “good” of all the potential violators and protectors of children’s rights. According to CHILDLINE employees, NGOs played a special role in the partnership

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<sup>722</sup> Field notes, 11 April 2019.

<sup>723</sup> For a similar empirical example of the practical difficulties of “integrated approaches” where different departments are meant to collaborate, see Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*, 229-34.

<sup>724</sup> Maharukh Adenwalla, *Child Rights and Law: A guidebook for legal interventions*, CHILDLINE India Foundation (Mumbai, 2002), 5.

because they were, as I put it earlier, the glue that connected all its parts. CHILDLINE's partnership model was dependent on a network of NGOs. As we have seen in this chapter, CHILDLINE's partner NGOs took a myriad of duties upon themselves without which the model would not function: they linked citizens and state; they generated awareness among rights holders and built capacity among duty bearers; and they saw it as their role to "get the system to work," to move rights from being just "on paper" to being *de facto* enjoyed. These roles cohere with an assumption that government schemes are static, and NGO workers active – and consequently indispensable in rights protection. This role is what I call NGOs as "gap fillers" in human rights implementation, which I will elaborate in Chapter 7.

### 5.5.3. Making individual citizens responsible

One of the many afternoons in the NGO Suraj's CHILDLINE office when we were sitting around waiting for the phone to ring, Prashant was reading a training book on child protection. Prashant was one of the most diligent employees, who always used waiting time to learn new things. Often, he would practice typing on the computer with the help of a software programme or read acts or handbooks like these to learn more about his field. This particular handbook he had brought back from a UNICEF-sponsored training in Bhopal, the state's capital. I skimmed the introduction to the book over his shoulder, which read: "it is an important foundation of society that children become future responsible citizens. It is society's responsibility to ensure that children live in an environment free from discrimination, neglect, abuse, and exploitation."<sup>725</sup> Prashant was here being exposed to an understanding of responsibility that called and depended on all of us as citizens, so that, in the future, children would also become responsible citizens – what we might call civic duty. And Prashant's exposure did not only come from UNICEF handbooks. CHILDLINE India Foundation's handbooks had similar formulations:

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<sup>725</sup> This is my own translation from Hindi.



It is about time that we realize that the safety, care and protection of children is the responsibility of us all. Each one of us has a part to play. As an organization, as an individual, as an adult, as a community and as a State, it is our responsibility to provide adequate care and protection to our children and young people.<sup>726</sup>

A senior CHILDLINE employee shared these views:

It's not only government. Of course, in terms of ensuring the safety and security of the children, it's basically the government's responsibility, government is accountable primarily, but however, we feel that (...) every citizen is responsible for ensuring the child protection, a child's safety. Because civil society, as (...) citizens of (...) any country, any nation, I think we have a greater responsibility to ensure (...) child protection, child safety.<sup>727</sup>

When the idea of a helpline hinges on the fact that an individual calls 1098 because she feels a sense of responsibility, it becomes the job of CHILDLINE and its partner NGOs to instil this sense of responsibility in individuals. As we saw above, CHILDLINE's strategy of appealing to as many people as possible, to make child protection "everybody's responsibility," was a more visible strategy than demanding accountability from the state. The strategy was also explained by the fact that individuals often feel powerless in the face of rights violations, and that the instilment of responsibility in individuals could alleviate such powerlessness:

The lay person always asks, 'what do *we* do in the sense that we see a child?' If you see a child in need, a child who needs protection, the first thing to do is to approach the nearest child welfare organisation, a CHILDLINE which is like a 1098 number that you can call.<sup>728</sup>

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<sup>726</sup> CHILDLINE India Foundation, *The Essentials of Child Protection: A Handbook for Beginners*, 20.

<sup>727</sup> Interview no. 21.

<sup>728</sup> Child Welfare Committee member speaking about CHILDLINE in Billimoria, "Genesis of Project Childline (NGO Interventions)."

Thus, on the one hand, we have the neoliberal trend of outsourcing responsibility to private actors and the on other, civil society organisations actively *taking* responsibility (and arguing for individuals to also take responsibility) for children's rights because they find it right. The latter framing – an appeal to people's "civic duty" – has virtuous connotations for most, while the former – handing out responsibilities to private actors – may sound like a slippery slope towards a neoliberal state system with minimal social security. These two framings together do indeed encapsulate the complexity and, at times, confusion of a model like CHILDLINE's: it represents a group of civil society actors appealing to people to do their civic duty, but it also plays into a neoliberal outsourcing model. Are they necessary backups in an imperfect state-centred system or a valuable part of a functioning system where the state is not central? We can conclude that CHILDLINE works with entangled but different understandings of responsibility: child rights duties as state obligations, as partnerships, as the moral responsibility of NGOs, and as the individual responsibility of citizens. In Haslanger's terms, CHILDLINE works with "institutional" and "manifest" versions of the duty bearer concept where they lean against and find inspiration in the hegemonic human rights language as well as with the "practiced" conceptualisation where the duty bearer of child rights could and should be "everyone" because it is pragmatic, and because it is believed to be an ideal worthy to strive for. I now turn to the question of how these understandings of responsibility impact on the concept and practice of rights.

#### 5.5.4. How does it shape the rights concept?

In the case I am exploring human rights duties were understood as something that society as a whole, or various "stakeholders" together, should fulfil. This understanding of duty means that rights are the result of NGO-run awareness and capacity building programmes and of active citizenry. Rights are something ideal, something that "should" be there but is not, and NGOs need to activate "stakeholders," especially citizens and state representatives, to bring them from "should" to "is." The meaning of working "rights-based," as many NGOs identify with doing, changes depending on how we understand duty bearing. In the NGO-state partnership CHILDLINE, rights meant to appeal

to the duties of citizens themselves in all their roles – “concerned adults,” officials, families and so on – to ensure that the society they live in is just and children get their rights fulfilled.

The argument behind CHILDLINE’s understanding of duties was that children’s rights were effectively better protected in a partnership model. It is of course not surprising that CHILDLINE’s staff and documents want to sell their model, but still noteworthy that they attribute success to the model, not *despite* all the gluing and linking work that NGOs need to do to make the system work, but *because* of it. As maintained in a CHILDLINE India Foundation publication:

The CHILDLINE partnership model is all about joint responsibility and forged alliances, providing to every child in distress, a better childhood. (...) The multiple ownership to CHILDLINE, involving various sections of society (children, NGOs, institutions, donors, Government) is the crux of CHILDLINE’s effectiveness.<sup>729</sup>

Or as Srinath argued in defence of the model: “I do think that this halfway model is (...) better (...) than (...) the full government one (...). This thing of ensuring the government meets its obligations while maintaining enough independence to be able to (...) play an advocacy role. I think that balance is ideal.”<sup>730</sup>

There is both an idealistic and a pragmatic assumption behind the belief in this model being effective. The idealistic assumption is that if we inform everyone that child rights are their responsibility too, then children will be better protected. The pragmatic assumption is that the state and other sectors will be more willing to enter into a coalition with NGOs if they are “partners” – not antagonists or the sole providers – and therefore it is a useful strategy for reaching desired social goals. The partnership model is thus an accepted and strategic “in” to work with the state. There are of course problems with the partnership model as well. These have to do with the creation of a precariat

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<sup>729</sup> CHILDLINE India Foundation, *Cross connections: the partnership model of CHILDLINE India*, 5-6.

<sup>730</sup> Interview no. 22.

of volunteers and low-paid social workers and, as several of my informants pointed out, the obvious financial benefits for the government that come with dispersing ownership. I will return to this discussion in Chapter 7.

My main point here has been that in this NGO-state partnership, the state is not conceptualised as the main duty bearer, but as one of many stakeholders. Responsibility is attributed to “everyone” and “all sectors,” which ultimately leads to the idea that individuals themselves should be responsible. In other words, CHILDLINE’s appeal to the duty of responsible citizens and to partnerships between all “stakeholders” is evidence of a conceptualisation of child rights duties as not being state-centred, but rather as based in civic duty. The actors who founded and developed the CHILDLINE model that I have looked at in this chapter thus have a complex relation to the state and to the neoliberal model of outsourcing. They are part of this practice, while strongly maintaining their “rights-based” credo. We thus see how this conceptualisation of duty bearing comes from specific political conditions, from a particular contextual practice, which shapes the meaning of a concept.

## 5.6. Conclusions: human rights duties within, with and outside the state

CHILDLINE is the story of a successful field action research project that became a government programme. It is also the story of an organisation and a service that developed during the liberalisation period in India and tapped into this privatisation tendency. CHILDLINE was born as an organisation with idealistic and social entrepreneurial intentions, but to reach its goals it had to carve out roles for itself that would be possible to perform within the state and system in which it operated. This meeting between idealism – wanting to improve the lives of children – and pragmatism – fitting into the state’s neoliberal agenda – is what has driven the programme forward to become a semi-governmental and hybrid entity, one that is both rights-based and partnership-based.

But despite the “all-inclusive” nature of a partnership rhetoric, one sector in particular has been the glue in upholding this partnership: the voluntary sector. The next chapter focuses on two particular voluntary organisations that implement the CHILDLINE programme in different parts of India. I will here delve deeper into the morally “good” label that the term “NGO” or “voluntary organisation” carries – a label that has not lost its moral weight even when NGOs collaborate closely with the state.

## 6. Small NGOs “partnering” with the state: value-mixing, mission drifts, and resistance

What happens to the identities and values of small NGOs when they enter into “partnerships” with the state and with larger NGOs? As evident from the previous chapter, there was a strongly held perception amongst NGO workers that the voluntary sector was morally distinct from the public sector. In this chapter, I explore how small NGOs shape and embody this perception, and how they negotiate their “partnership” with CHILDLINE India Foundation and with the Indian state. I also look into how organisational and sectoral values frame NGOs as having a specific type of responsibility in ensuring that rights are upheld. By studying two small child rights NGOs from “the inside,” I trace how the processes of forming an organisational identity, creating a particular set of values, applying for and spending foreign donor money, and being regulated by the Indian state all contributes to an imagery of NGOs as necessary and morally righteous actors in human rights implementation. I argue that the two NGOs that I studied each sought to maintain their unique organisational identities and values, but their values were also homogenised through “partnerships” with donors and through the regulating state. This resulted in several “mission drifts”<sup>731</sup> where appealing to communities’ civic duty was prioritised over appealing to a state duty, and where small NGOs chose to work with service-based issues – like child protection – rather than

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<sup>731</sup> Bennett and Savani, “Surviving Mission Drift: How Charities Can Turn Dependence on Government Contract Funding to Their Own Advantage.”

more “political” issues, like Dalit<sup>732</sup> rights. I also explore NGO personnel’s view of their own and the state’s human rights duties. They saw the state’s human rights duties as legal, ideal, but rarely fulfilled, and their own human rights duties as voluntary, non-ideal, but fulfilled.

I will begin the chapter by introducing the body of literature that I seek to contribute to through this chapter, a literature located at the intersection of human rights studies and NGO studies (6.1.), followed by an introduction to my two NGO case studies (6.2.). The rest of the chapter is dedicated to an analysis of the case studies. In 6.3., I demonstrate how an NGO’s origin story and founding figure create compelling tales of injustice and suffering that justify the opening up an NGO, and provide the organisation with a moral mandate. In 6.4., I look at histories of voluntarism and activism to argue that the discursive construction of the voluntary sector as morally righteous is embedded in longer and particular traditions. In 6.5., I examine the values of the two NGOs’ donors and how donors influence an NGO’s values, add a “technomoral”<sup>733</sup> vocabulary to NGOs, and homogenise of their practices. In 6.6., I argue that the state also has a significant influence in framing the voluntary sector’s values, both discursively and very practically, as the state sets the legal framework for NGOs’ abilities to operate. In the final section, 6.7., I argue that all these values, emanating both from the NGOs themselves and from the influencing institutions of donors and the state, play into the expectation that the voluntary sector has a particular role to play in relation to rights.

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<sup>732</sup> The term Dalit refers to what was previously known as “untouchables.” The word originates from Marathi and means “broken men” or “the downtrodden.” It was popularised by the Dalit lawyer and one of the key authors of the Indian Constitution, B.R. Ambedkar, who preferred it to terms used by non-Dalits such as “harijan” (a term favoured by Gandhi, meaning “God’s children”) or “untouchables.”

<sup>733</sup> I will return to this term later. I borrow it from Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India.”

## 6.1. Identities and moral duties of NGOs

With the term “organisational identity,” I refer to those “central and enduring attributes” that distinguish one organisation from another.<sup>734</sup> It is a “subjective sense of uniqueness” that organisations develop.<sup>735</sup> It has been recognised in the organisational literature on NGOs<sup>736</sup> that they not only seek to distinguish themselves from each other as individual organisations, but also as a sector, i.e. through an “NGO identity.”<sup>737</sup> Part of an NGO’s identity are values, which can be defined as what someone – or in this case, an organisation – “attribute as important.”<sup>738</sup> Such an identity is positioned against the for-profit private sector, which – by the NGO sector – is perceived to embody values of self-interest and profit,<sup>739</sup> and against the public sector, which is seen as embodying bureaucracy, hierarchy, and a lack of selfless motivation. The NGO sector, then, sees itself as doing “beneficiary oriented” work,<sup>740</sup> developing an identity based in values like being flexible, responsive and close to communities, and having an ideological purpose related to a non-profit oriented mission to improve society.<sup>741</sup> Numerous ethnographies have shown how the people who decide to found an NGO belong to a realm of actors considered morally “good” by most outsiders.<sup>742</sup> Finally, an NGO’s identity

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<sup>734</sup> David A. Whetten, “Albert and Whetten Revisited: Strengthening the Concept of Organizational Identity,” *Journal of Management Inquiry* 15, 3 (2006): 220.

<sup>735</sup> Ibid.

<sup>736</sup> This is, as we saw in Chapter 1, a literature focusing on the norms and institutional dynamic of NGOs as organisations (Pradhan, Norman-Tichawangana, and Kamat, “NGOs in international development: ongoing trends and new architectures,” 566).

<sup>737</sup> Jakimow, “Negotiating the Boundaries of Voluntarism: Values in the Indian NGO Sector,” 549.

<sup>738</sup> Saldaña, “Qualitative Data Analysis Strategies,” 896.

<sup>739</sup> Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” 84.

<sup>740</sup> Ibid.

<sup>741</sup> Hailey John, “Indicators of Identity: NGOs and the Strategic Imperative of Assessing Core Values,” *Development in Practice* 10, no. 3/4 (2000): 403-04.

<sup>742</sup> Sampson, “Introduction: Engagements and Entanglements in the Anthropology of NGOs,” 8.



is the product of its broader social and political environment, and is “negotiated by multiple actors, such as funding agencies, the state, and the general public.”<sup>743</sup> In other words, it is created at the meeting of what Ashok Subramaniam has called

(a) the halo: a great cause favoured by the founders that binds the voluntary agency’s personnel; (b) the hero: charismatic leadership of a social entrepreneur; and (c) funds: disproportionate inputs of resources due to easy access to donors.<sup>744</sup>

NGO identities exist on a spectrum from being movement-like to professionalised, a spectrum well-articulated by the Indian activist Aruna Roy:

When you work with people there are three kinds of work: seva, nirman and sangharsh. Seva is welfare or service – providing food to those who are starving or caring for those who are ill. Nirman is development – running schools or a women’s skill programme. (...). [Sangharsh] is almost always political work in its broadest definition – that of asking for constitutional rights within the framework of democratic participation.<sup>745</sup>

In her capacity of being an expert on the non-profit sector in India, Srinath confirmed that the child rights landscape in the country could be categorised along such a spectrum:

You have the pure service delivery organisations. If I think of an organisation like say, Akshaya Patra (...) that supply meals to the mid-day meal programme. I think they’re feeding two million children a day or something like that. That’s an organisation that works with the government, (...) delivers a programme that is very much part of a rights-based programme because, you

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<sup>743</sup> Jakimow, “Negotiating the Boundaries of Voluntarism: Values in the Indian NGO Sector,” 546.

<sup>744</sup> Ashok Subramaniam, cited in Sheth and Sethi, “The NGO sector in India: historical context and current discourse,” 59.

<sup>745</sup> Aruna Roy, quoted in Sneha Philip and Smarinita Shetty, “Interview: Aruna Roy on how she has successfully campaigned for people rights for four decades,” *Scroll*, 31 January 2022, <https://scroll.in/article/1016243/interview-aruna-roy-on-how-she-has-successfully-campaigned-for-people-rights-for-four-decades> (accessed 11 October 2023).

know, right to food, as well as the right to education, because the mid-day meal (...) plays a huge role in ensuring that children come to school, but is entirely service delivery, works in close partnership with the government, is funded in very large measure by philanthropists who are very close to the government and who will never ever sort of say anything critical of the government. And then at the other end of the spectrum is organisations, say like HAQ in Delhi which (...) works particularly on areas of juvenile justice and (...) they're exceedingly critical of the government and are much, much more activist in their orientation. And there's everybody in between, (...) there's a whole spectrum of organisations that fall between (...) Akshaya Patra at one end and HAQ at the other.<sup>746</sup>

As we will see in this chapter, the NGOs that I study are somewhere between *sevā* and *nirman*, and one of them has roots in *sangharṣ*. Some scholars have framed similar thoughts as dichotomies, such as Mary Kaldor's separation of civil society in an activist conception (represented by social movements) and a neoliberal conception (represented by NGOs).<sup>747</sup> Upendra Baxi links voluntarism to "service," a language still recognisable and prevalent in NGOs in India today. In contrast to voluntarism, Baxi puts activism, which "seeks to empower the victims."<sup>748</sup> I suggest that it is more adequate to frame NGO identities as a spectrum rather than as a dichotomy, because many NGOs, during their lifetime, often will move along the spectrum and adapt their values without leaving their "original" values behind – a phenomenon which, when brought on by external actors, is known as "mission drift."<sup>749</sup> Throughout this chapter, I will refer to this as the "struggle-to-service spectrum." Importantly for my cases, NGOs work within a political environment that to varying degrees demands of them to be the state's

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<sup>746</sup> Interview no. 22.

<sup>747</sup> Mary Kaldor, cited in Lang, *NGOs, Civil Society, and the Public Sphere*, 91.

<sup>748</sup> Upendra Baxi, "Activism at Crossroads with Signposts," in *Non-Government Organisations in Development: Theory and Practice*, ed. Noorjahan Bava (New Delhi: Kanishka Publications, 1997), 57.

<sup>749</sup> Bennett and Savani, "Surviving Mission Drift: How Charities Can Turn Dependence on Government Contract Funding to Their Own Advantage."

implementers which limits their scope to do *sangharṣ* (struggle) – yet does not force them to abandon their *sangharṣ* values completely.

The above-described literature on NGO identities and values is the first body of work that I seek to contribute to in this chapter. However, since I am particularly interested in how small NGOs work with notions of right and duty, I will combine the NGO literature with human rights literature. We saw in Chapter 3 that international human rights law rarely renders NGOs as central actors. The role of NGOs in human rights practice is therefore curiously both an outsider role and a central role – after all, it is through NGOs that a lot of “human rights work” is done and within NGOs that many “human rights people” are placed. As discussed in previous chapters, there are of course some branches of human rights studies that are concerned with NGOs. Particularly notable is the work on how human rights ideas travel and “vernacularise” in various contexts, processes that often happen through the medium of NGOs.<sup>750</sup> I will spend some time in this chapter reflecting on such traveling rights vocabularies and on the homogenisation of rights language and practices – which resonates strongly with how the NGO literature has shown that NGOs are often pressured to conform to the agendas of external actors.

Where we can also benefit from merging organisational NGO studies with human rights studies is when it comes to studying the ascribed moral duties of NGOs. After all, the mere existence of NGOs is evidence of a class of “more fortunate” individuals who want to “improve conditions of the underprivileged.”<sup>751</sup> As NGOs seek to represent subalterns,<sup>752</sup> there is often a class gap between the NGO and those that it seeks to represent. The desire to do

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<sup>750</sup> Such as Mark Goodale and Sally Engle Merry, *The Practice of Human Rights: Tracking Law between the Global and the Local* (Cambridge: Cambridge University Press, 2007); Merry, “Transnational Human Rights and Local Activism: Mapping the Middle;” Peggy Levitt and Sally Engle Merry, “Translating Global Women’s Rights Into Local Contexts: Cultural Diffusion in India, China, Peru, and the USA.” (Conference Papers - American Sociological Association, 2008).

<sup>751</sup> Ellen Messer, “Anthropology, Human Rights, and Social Transformation,” in *Human Rights: An Anthropological Reader*, ed. Mark Goodale, Blackwell Readers in Anthropology (Chichester: Blackwell Publishing Ltd, 2009), 108.

<sup>752</sup> Gayatri Chakravorty Spivak, “Righting Wrongs,” *The South Atlantic Quarterly* 103, no. 2/3, Spring/Summer (2004).

something for lower classes is often expressed as a moral duty, and moral duties imply a hierarchy. Most (but not all) NGO workers are middle class professionals who, as part of the “development sector,” are outside and above the lower classes that they oftentimes seek to “develop.”<sup>753</sup> In this analysis, it becomes clear that even if an NGO applies a rights-based approach, it still exists in a position of power, evident by the fact that it can “empower” others. Towards the end of this chapter, I will return to these themes, showing how NGOs’ missions “drift” from appealing to a state duty to civic duty to, finally, comply with the state’s neoliberalism. But first, I will introduce the two NGOs that I attend to as empirical cases.

## 6.2. Case studies from Tamil Nadu and Madhya Pradesh

This chapter is based on ethnographies of two Indian child rights NGOs that I call Community Centred Action and Suraj.<sup>754</sup> At the time of study, they were both sub-contractors of CHILDLINE India Foundation, and therefore function as apt illustrations of how small NGOs that are indirectly contracted by the state work with the fulfilment of children’s rights. They are relevant to analyse together as they represent different positions on the struggle-to-service spectrum, introduced above. We will see how their localities and particular histories led them to work “rights-based” in each their specific manner, but that donors and the state steered them towards a particular kind of homogenised “rights-based approach.”

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<sup>753</sup> Jakimow, *Peddlers of Information. Indian Non-Government Organizations in the Information Age*, 92-95; Kamat, “The privatization of public interest: theorizing NGO discourse in a neoliberal era,” 160; Merry, “Legal Transplants and Cultural Translation: Making Human Rights in the Vernacular,” 296; Sen, “Some Aspects of State-NGO Relationships in India in the Post-Independence Era,” 336-38; Sheth and Sethi, “The NGO sector in India: historical context and current discourse,” 56.

<sup>754</sup> Both are pseudonyms. See Chapter 2 for details on methods and my relationship with and positionality towards each NGO. Here, it might be helpful to remind the reader that my role in the NGO Community Centred Action was as a donor-researcher, and at Suraj I was only a researcher.

### 6.2.1. Community Centred Action

The NGO Community Centred Action is located in a rural town with a bit less than 30,000 inhabitants in the south-eastern state Tamil Nadu. Tamil Nadu has a history of (especially linguistic) resistance to the Hindi-dominated north, and even though an attempted secession following India's independence did not succeed, it is still dominated by a strong regionalism.<sup>755</sup> Like many other states, Tamil Nadu is also home to a large Dalit population. After independence, there was in Tamil Nadu "a brief hope that the Congress and other parties would embrace the Dalit cause, but their failure to do so engendered mass conversions out of Hinduism and more radical movements against caste practices."<sup>756</sup> Such movements included a series of protests against untouchability in the 1980s.<sup>757</sup> At the time, many educated Dalit leaders founded organisations for their own community's emancipation and against untouchability.<sup>758</sup> David Mosse and Sundara Nagappan call the 1990s the "decade of renewed Dalit activism."<sup>759</sup> The NGO Community Centred Action started as part of these movements in the 1990s.

### 6.2.2. Suraj

The NGO Suraj is located in a district capital with approximately 100,000 inhabitants in the central Indian state Madhya Pradesh. In contrast to Community Centred Action, it did not originate in a movement or struggle (*sangharṣ*), but as the project of a Masters graduate in Social Work who set out to do service (*sevā*) for the less fortunate. Madhya Pradesh was one of the first

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<sup>755</sup> Ramachandra Guha, *India After Gandhi: The History of the World's Largest Democracy* (London: Macmillan, 2007), chapter 14; Rudolph and Rudolph, "The old and the new federalism in independent India," 152.

<sup>756</sup> Hugo Gorringe, "Beyond 'Dull and Sterile Routines?': Dalits Organizing for Social Change in Tamil Nadu," *Cultural Dynamics* 22, no. 2 (2010): 107.

<sup>757</sup> Ibid.

<sup>758</sup> Ibid., 108.

<sup>759</sup> David Mosse and Sundara Babu Nagappan, "NGOs as Social Movements: Policy Narratives, Networks and the Performance of Dalit Rights in South India," *Development & Change* 52, no. 1 (2021): 137.

states with a government led by the BJP and is still a stronghold of the party. Many of my informants here voted for the BJP in the 2014 and 2019 elections. Suraj describes itself as a “district level humanitarian, gender sensitive and child focused development organization.”<sup>760</sup> They highlight the plight of “neglected, street and working children” and categorise the child target groups in terms known and used in the wider Indian social work sector, such as “children in conflict with the law” and “vulnerable railway children.”<sup>761</sup>

I now turn to examining the two NGOs in more detail. How did they carve out distinct organisational identities? How were their value sets created? How has it affected their identities that they played a semi-governmental role that helped the state in fulfilling rights?

### 6.3. The NGO origin story

Many small Indian NGOs are characterised by a charismatic founder and a compelling origin story and cause, which set the scene for the NGO’s identity construction. An NGO’s origin story creates a tale of injustice or suffering that justifies the establishing of a voluntary organisation. Such an origin story often gains an almost mythical status within an NGO, as it is told and retold to visitors, existing and potential donors, and new employees. Indeed, one of the characteristics of being an NGO is that you constantly have to keep selling yourself – your values, your projects, and, not least, your origin story – to

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<sup>760</sup> Suraj’s non-public annual report 2014-2015. The document is with the author.

<sup>761</sup> Ibid.

survive as an organisation.<sup>762</sup> Such pragmatism does not mean that the story is false or even necessarily exaggerated, but rather that it has become an essential part of the organisation's identity.

This section tells the origin stories of the two NGOs that were introduced above and demonstrates how the origin story and founding figure ("the halo" and "the hero," in Subramaniam's terms) are major factors in developing a particular NGO identity. I show how both origin stories first emphasise injustice or suffering, then action. This will feed into the final discussion of this chapter about how NGOs are constructed as virtuous rights implementers by demonstrating how an NGO founder's experience or witnessing of injustice establishes and projects the identity of a morally righteous person who through the founding of an organisation can achieve social change.

### 6.3.1. The Dalit social mobilisation story

I first encountered Community Centred Action's origin story when I started as an intern at their Danish donor NGO in 2017. My manager told me about "the hero" in the NGO story: the admirable character of Thomas, a Christian Dalit<sup>763</sup> who had experienced caste and religion-based discrimination since childhood, but had beaten the odds by educating himself to become a lawyer. His grades could have led him to a high-paying job, but instead he chose to dedicate his skills to help others like himself. When my manager told me

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<sup>762</sup> For more on this phenomenon, see for instance Allen, *An ethnography of NGO practice in India: Utopias of development*; Gupta, "From Demanding to Delivering Development: Challenges of NGO-Led Development in Rural Rajasthan, India," 129; Jakimow, *Peddlers of Information. Indian Non-Government Organizations in the Information Age*, 13; Jakimow, "Negotiating the Boundaries of Voluntarism: Values in the Indian NGO Sector," 555; Muhammad, "Rise of the Corporate NGO in Bangladesh," 48; Rajaram and Zararia, "Translating women's human rights in a globalizing world: the spiral process in reducing gender injustice in Baroda, India," 466-68; 71; Sampson, "Introduction: Engagements and Entanglements in the Anthropology of NGOs;" Shankar, "Descriptive Overview of the Indian Constitution and the Supreme Court of India;" Sheth and Sethi, "The NGO sector in India: historical context and current discourse," 58.

<sup>763</sup> In some areas, Dalits converted to Christianity to escape caste discrimination. The practice of untouchability was officially prohibited by India's Constitution of 1950, but discrimination against Dalits continues, regardless of religion.

Thomas' story by emphasising how he had chosen the moral path as opposed to the "amoral" business path, she put "NGO values" in opposition to the for-profit sector.

When I later the same year met Thomas in person during a monitoring visit<sup>764</sup> in Tamil Nadu, I experienced him as a person who always did his utmost to understand other people's perspectives, but, at the same time, did not shy away from sharing his political viewpoints on everything from the World Bank's structural adjustment programmes to local state departments that he disagreed with. When I interviewed him, as we were sitting on either side of his desk in his hot, fan-blowing office, he opened a drawer and took out four brownish newspaper clippings. To my surprise they were in Danish and Thomas said that he did not understand them, but that they had been written while he was doing an NGO management course sponsored by the NGO Mellemløst Samvirke in Denmark in the early 1990s. I asked if I could photograph the articles and, as I later read them, I learnt that they conveyed, to a Danish public, the "halo" or the "cause" of Thomas' work: the magnitude of Dalit discrimination. In one of the articles, Thomas was quoted trying to explain how, in some villages, Dalits had to hold their hand in front of their mouth when speaking to a higher caste. He also told about denial of access to facilities such as water tanks in villages as well as physical separation of Dalits from non-Dalits in schools.<sup>765</sup> He had also experienced caste discrimination within the church, where almost exclusively high caste people would be bishops and priests, despite the fact that 85% of the church members were Dalits. Dalits would even lie in separate parts of the graveyard.<sup>766</sup> Finally, he emphasised the personal sacrifice that had gone into his work, as he had been

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<sup>764</sup> As described in Chapter 2, I worked as an intern and volunteer for Community Centred Action's Danish partner NGO and therefore participated in monitoring visits of child rights projects.

<sup>765</sup> Publication with a Danish newspaper. Details are not provided here to respect Thomas' privacy, but the photos of the clippings are archived with the author.

<sup>766</sup> Publication with a Danish newspaper (see note 765). Caste conflicts within the church is documented to have taken place in the region for centuries (Oluf Schönbeck, "The legacy of Tranquebar: The 'Ziegenbalg myth' and the debates on caste," *Review of Development and Change* XIV, Special Issue: Indo-Danish Cultural Encounters in Tranquebar: Past and Present (2009): 115-16).



imprisoned several times for his involvement in the Dalit cause and lost a friend who was killed by police when they demonstrated for land rights.<sup>767</sup>

How did the “hero” Thomas and the “halo” of Dalit suffering then lead to the founding of an NGO? In my interview with Thomas, he made a point of underlining that when he had begun fighting discrimination in the late 1980s he “did not know that there is [an] NGO system,”<sup>768</sup> thus putting his cause first and conceiving of the “NGO system” simply as a medium to address it. At the time, he had, with a group of friends organised voluntary activities to educate Dalit school dropout kids and “help the [Dalit] people to get access to some schemes and programmes.”<sup>769</sup> To understand his approach to the work with empowering Dalits that he began in the 1980s, consider this description of a street play that Community Centred Action shows in towns and villages to communicate about how to organise the Dalit community:

A man is hit to the ground by a group of people who leave him hurt and unable to get up. One by one, three persons pass by and promise to help the fallen man in various ways: a politician promises to take his case to parliament if he votes for him, then leaves; a priest promises to help him if he prays to God, then leaves; a social worker promises to go to a foreign university and study his problems, then leaves. None of the three come back. Slowly, other equally hurt and downtrodden people start crawling onto stage from the corners. None of them manage to stand up by themselves, but by leaning on each other, they raise up as a group.<sup>770</sup>

This play illustrates Community Centred Action’s approach and origin story well: before it became a formal NGO, it was a group of educated Dalits who mobilised other Dalits against oppression and discrimination on issues ranging from education to the church and land ownership. Their approach underlined that politicians, priests and social workers could not help, but that other Dalits, together, could rise up and demand justice. Community Centred Action thus began as an activist, rights-aware and anti-discrimination

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<sup>767</sup> Publication with a Danish newspaper (see note 765).

<sup>768</sup> Interview no. 9.

<sup>769</sup> Ibid.

<sup>770</sup> This is from my notes describing the play as I saw it on 22 March 2019.

organisation. They considered it their job as “educated people from the affected communities”<sup>771</sup> to mobilise and demand the rights that the state owed them. We can thus place Community Centred Action’s origin story at the “*sangharṣ*” (struggle) end of the struggle-to-service spectrum of NGO identities.

Apart from Thomas, the second “hero” of Community Centred Action’s origin story was Sunita. Over lunch, she told me how she had barely been educated, married Thomas at a young age and had three children, and for many years focused her life on being a mother and wife. But slowly she became involved in her husband’s organisation, she learnt English and learnt doing the accounts, and, as she said laughingly, Thomas almost pushed her into learning more and more. She completed master’s degrees in English and Development and soon got more formal responsibilities within the organisation. After Thomas’s death in 2021, she became the Director of Community Centred Action. She has also gained a particular status at the Danish donor NGO where her story is used for communication purposes as an example of an empowered woman. Sunita’s story of being an uneducated Dalit woman and, later, her odds-overcoming career, became an integrated part of the organisation’s origin story.

A major challenge for Community Centred Action has always been to find qualified staff. The NGO is located in a small town where few if any people have social work degrees. The few who do move away, and it is nearly impossible to hire people from outside due to the meagre salary. Instead of aiming for professional staff, Community Centred Action hires motivated people whom it trains internally. When I visited the NGO in 2019, it for example had a woman with a beautician degree working with data entry – but she was young and eager to learn and thus considered a successful hire. Another staff member told me that she had only completed 10<sup>th</sup> grade and with small children had not had the opportunity to continue her education, but that Thomas and Sunita had believed in empowering women, and that was what had happened to her through this job.<sup>772</sup> Thus, the value of

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<sup>771</sup> Interview no. 9.

<sup>772</sup> Interview no. 12.

empowering underprivileged people was reflected also in Community Centred Action's employment strategy.

Over the years, the organisation grew and secured funding from a Danish NGO and from CHILDLINE. Slowly, their focus began changing from "Dalit rights" to "child rights." They had always had a focus on children because, according to Thomas, the reason that Dalits had not previously organised as much as they could was a lack of education, which should be addressed during childhood.<sup>773</sup> But today, all of the organisation's projects are framed around child rights broader than the rights of only Dalit children. I will return to this interesting shift below. But despite the growth, entrance of donors and new focus, Community Centred Action was still dependent on specific people, in particular Thomas, but also Acelin, with whom he had started the organisation, and Sunita. This reflects the importance of the organisation's "original people" and their cause. The continuity of people came to an abrupt end in 2021 when Thomas passed away during the Covid-19 pandemic, a tragedy for both those who knew him and for his NGO. It is too early to say what will happen to the organisation, other than that Sunita at the time of writing is managing it with an ambition to live up to Thomas's legacy.

In Community Centred Action's origin story, the Dalit struggle was the "halo" and Thomas was the "hero." The organisation created an identity that was built around mobilising and organising a local community. Significantly, it was an organisation created *by* Dalits *for* Dalits. The NGO identity that Thomas and the others cultivated was one in which "NGO people" gained legitimacy by having themselves experienced hardship and discrimination. It was also one that placed "NGO people" in opposition to other potentially well-meaning people such as priests, social workers and politicians, as illustrated by the street play. The NGO identity was thus carved out in opposition to all who had not themselves experienced the injustice that Community Centred Action fought against. I now turn to another origin story, that of the organisation Suraj.

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<sup>773</sup> Publication with a Danish newspaper (see note 765).

### 6.3.2. “It was always my dream to start my own NGO”: The professional social worker’s origin story

Mirroring how Community Centred Action’s story centered on the personality of Thomas, the NGO Suraj’s story evolved around the social entrepreneurial personality of Master of Social Work graduate, Jagadish. Jagadish’s story is one of professional dreams and career development within the social work sector, where the peak achievement was to establish his own NGO, and where the witnessing of others’ suffering was his primary drive. The origin story of Suraj, as we shall see, led to an NGO identity grounded in the curious value of “professional voluntarism.”

Born and raised in Indore, a large city in Madhya Pradesh, Jagadish went to college to study social work. After his graduation, the natural career path was to obtain employment in an NGO, a path he followed for several years to gain the required experience to eventually found his own NGO. During this time, he developed a name for himself in the city’s social work scene, especially in the field of child protection with a specialty in training, consulting and teaching, particularly teaching government officers and college students. Although he had enjoyed this work, Jagadish expressed in an interview that his real dream and passion had always been to open his own NGO, a dream which came to reality in 2007 when he registered the organisation Suraj.<sup>774</sup> When he told me about the reasons for starting up an NGO, he talked about those who suffered – about children who picked waste for a living instead of going to school, about leprosy patients, about abused women. The cause, or the “halo,” in Jagadish’s case did not have much to do with a group that he himself belonged to, but was rather a recognition of his own privilege and a wish to help those less fortunate. As he said, his dream with Suraj was to “do something” for children and women.<sup>775</sup>

At the beginning of its existence, Suraj depended on many smaller funding sources: Jagadish’s own pocket, small sales for fundraising, and door-to-door fund collection. They got their first project funding through a foundation to

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<sup>774</sup> Interview no. 19.

<sup>775</sup> At the time of my fieldwork with Suraj, children were the main focus, but previous projects and organisational documents had also focused on women.

implement a woman's health project. As their reputation slowly grew, they also began to obtain funds from the Indore District Government for doing awareness sessions at schools about various children's issues. At first, Suraj operated only in the city Indore, but it later opened branches in two smaller district capitals in more rural areas of Madhya Pradesh. The idea to open these offices came when Jagadish, during a visit to one of these towns, observed children with leprosy who did not get any help. This experience and action – seeing suffering and reacting with opening an NGO – mirror a typical origin story of other NGOs that I met in the area. It was common that NGO founders began by telling me, their foreign visitor, about how they had been witnesses to a social problem that no one else was addressing.

Jagadish's ideas of good social work centred on having a university degree and, if not, at least a good amount of mentoring and training from other social workers. Such a view of social work with children as "professional" is not a given among Indian NGOs. Some NGOs explicitly reject professionalism,<sup>776</sup> while others focus more on their employees' ability to mobilise or on being from vulnerable groups themselves. But as Jagadish underlined to me, his organisation was "started for the children by (...) professionals."<sup>777</sup> A lot of everyday life at Suraj revolved around the "Master of Social Work" or "MSW," a degree that exists all over India.<sup>778</sup> Most of the staff built their social work credentials by either having done an MSW or currently being enrolled in one – and if not, they were constantly encouraged to do it. During my field stay, I often met MSW'ers in different contexts, evidence of a network of professional social workers across NGOs and local government. For instance, one day a newly appointed government employee in the Integrated Child Protection Scheme came to Suraj's office to introduce herself and she found out that Jagadish had taught her in social work in college. Many of the young new staff at Suraj were similarly recruited because they were studying for an MSW. Being an "MSW'er" created an immediate common

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<sup>776</sup> See Allen, *An ethnography of NGO practice in India: Utopias of development*, 40; 90.

<sup>777</sup> Interview no. 19.

<sup>778</sup> Social work as a graduate degree in India started in 1936 with the opening of what is today the Tata Institute of Social Sciences (TISS) in Mumbai. As we saw in Chapter 4, TISS was also the institution where the CHILDLINE programme was developed.

social work cause, and the curriculum of the MSW degree shaped the strategies and ideas that social workers imbued into and practiced at the NGO. Suraj's many interns literally brought the curriculum to the office when they spent quiet moments studying or talking to the staff about their courses and fieldwork. My own presence in the office was also a result of an international extension of the MSW network. I had come to know about the NGO through my Indian university colleague who, in addition to the Master in Human Rights she studied with me, had also done an MSW.

While, as we saw above, Community Centred Action made a point out of "empowering" women by hiring them, Suraj handled female staff's difficulties more as professional issues. It is not always easy being a woman working for a 24-hour helpline. As one female employee, Sonali, expressed it, "NGO" in itself was a decent job for a woman, but the CHILDLINE job profile was particularly heavy because of the emergency nature and "night stay."<sup>779</sup> The potential night stay was a constant issue of discussion at the office, including both deciding who should stay over during a particular night (none of the women had an easy time doing this due to pressure from their families, be it parents or in-laws) or when hiring new female staff. Most of the potentially interested female candidates turned down the job offer when they learnt about the night stay. When it came to dealing with these difficulties, there was a supportive, but also pragmatic, environment at the office. At one staff meeting, Radha – a long-term female staff member – articulated the problems her in-laws were giving her about being at work over night. Jagadish suggested that the other two women took turns on the night stay so that they could keep Radha and support her. He asked his staff what they thought of this, and, one by one, all the male staff agreed – until it came to Sonali, who said: "My family is also not happy with this. Whenever I have to go at night, my family says: but there are other ladies there, why can't they do it? And Basanti lives far away, so in practice it will only be me." "Then what do you suggest, Sonali?" Jagadish asked. Sonali did not have a suggestion. It was discussed further, and they came to the compromise that Basanti would come whenever

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<sup>779</sup> Interview no. 1. If a girl child had to stay at CHILDLINE's office during the night, it had to be with a female employee, and doing this job was referred to as the "night stay."

she could, and they would only call Sonali in emergency situations.<sup>780</sup> During my three-month stay, new makeshift solutions constantly had to be negotiated in order to have an “on-call” female cadre for the night shift. The office’s neighbour or the wives of the male staff stepped in when they could, and the Director and Coordinator were in constant search for female staff with liberal families who lived nearby and had a scooter. Whenever potential candidates were interviewed, the information about the night shift came first, since it was known to be a deal breaker for most. The presumption was that most young girls would be able to learn the content of the job, but the extent of family control was fixed.

In Suraj, poor children – especially street children, waste pickers, and leprosy patients – were the “halo” and Jagadish was the “hero.” The above description of its origin story and staff represents a somewhat different idea of what good NGO work is than we saw in the example of Community Centred Action. In Suraj’s case, the value that dominated was that of serving the less fortunate – marginalised and impoverished children and women, especially subgroups such as leprosy patients and waste pickers – with the professional tools that staff had learnt in the Master of Social Work. The personal stories of the NGO workers were not necessarily central – and if they were, they were stories of how Jagadish or others had *seen*, not *experienced*, misery. As professional NGO workers, if they themselves experienced injustice – which the female staff clearly did – this was not taken as a point of departure for the mobilisation or organising of women, but was rather treated as workplace difficulties that needed to be overcome so that they could keep working for the more unfortunate. This finding resonates with Sharma’s study of a semi-governmental women’s empowerment programme that did very little to empower their own female staff.<sup>781</sup> “NGO people” in Suraj’s case were thus people who had been trained through a professional degree and experience. The organisation’s origin story evolved around Jagadish’s witnessing of injustice. It was the witnessing, rather than personal experience, that gave the NGO a moral license to establish a “doing good” organisation. Suraj created

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<sup>780</sup> Field notes, 4 February 2019.

<sup>781</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 73.

their social worker identity in opposition to those who did not work on the basis of a professional calling. I now turn to discuss what these two different NGO origin stories can tell us about a common NGO sector identity.

### 6.3.3. Origin stories shape a “virtuous” NGO identity

Origin stories, or “founding stories” as Jakimow calls them, are important because they create an image of a “pure” period without funding that reflects the “real” values of an organisation.<sup>782</sup> Together, the two origin stories that I have described illustrate how the shaping of an NGO’s identity is affected by the founder – the “hero” – and a particular social group suffering injustice – the “halo” or the cause. The differences in the two origin stories are clear, and we have seen how they represent different points on the struggle-to-service spectrum. Community Centred Action sought to maintain an identity as a rights-based movement despite being increasingly more “NGOised,” while Suraj was proud of being “NGOised” and sought to maintain a professional social work image, especially through the MSW network. But the two NGOs also share certain traits by representing a “virtuous” sector. By registering as an NGO, both Thomas and Jagadish obtained a moral license for their projects. Furthermore, by making their origin story personal and specific, the NGOs discursively constructed the founder and by extension the entire organisation as morally righteous actors. Origin stories hence help us understand how an NGO distinguishes its identity from the surrounding society by portraying itself as particularly virtuous and therefore, as we will see below, better placed to carry out “moral” projects – such as fulfilling rights. However, when NGOs survive beyond their initial “pure” period, they will need to “constantly rearticulate (...) their values, beliefs, philosophy, and organizational principles,”<sup>783</sup> as these are not only shaped by their founder, but also by particular histories of voluntarism and activism, by donors, and by the state. I now turn to examine the histories of voluntarism and activism that shaped the values of the two NGOs.

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<sup>782</sup> Jakimow, “Negotiating the Boundaries of Voluntarism: Values in the Indian NGO Sector,” 555.

<sup>783</sup> Alan Fowler, cited in *ibid.*, 549.



## 6.4. Rights values in the vernacular: struggle or service?

Despite the centrality of the NGO founder as shown above, an NGO's identity is also significantly affected by contextually developed understandings of what NGO work is and should be. As Jakimow writes, NGOs depend on values "for their identity, their legitimacy, and by extension survival."<sup>784</sup> In this section, I look at particular histories of activism and voluntarism to argue that these also matter enormously for how an NGO constructs its identity. In the case of Community Centred Action, the history of Dalit activism is an example of the contextual development of a particular set of NGO values, which in my case study became manifest in the strategy of organising and mobilising marginalised communities. In Suraj's case, the tradition of "*samāj sevā*" (social service) for the less fortunate influenced the organisation's social workers' understanding of good NGO work. The NGO thus represent different ideas of what it means to be a moral duty bearer of rights – a "teacher" or "empowerer" in Community Centred Action's case, and a "deliverer" or "service provider" in Suraj's case. This shows how values are combined in different ways depending on context. But even though the struggle for one's own empowerment, on the one hand, and service for others' well-being, on the other, are very different – perhaps even opposing – value sets, they both represent an "NGO-ness" by virtue of being moral projects. Furthermore, value sets do not exist in a vacuum, but interact with and are impacted on by the fact that both NGOs are implementers of the state's rights schemes. In other words, these value sets are not "pure," but are – through their embeddedness in discourses of state developmentalism, neoliberalism and the global NGO sector – examples of rights conceptions that are close to the "vernacular" and far from the "hegemonic."

### 6.4.1. An NGO teaching rights: Empowering and mobilising marginalised communities

In the previous section, we saw how Community Centred Action told their origin story by accentuating the social mobilisation of Thomas and the

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<sup>784</sup> Ibid., 548.

empowerment of Sunita. However, their story is not unique, but part of a larger history of Dalit struggle in Tamil Nadu.<sup>785</sup> In this section, I argue that the identity as an empowerment organisation that mobilises marginalised communities is partly a result of the fact that the organisation began as a movement of Dalit struggle and partly of the compatibility of the “empowerment” value with the expectations of donors and the state. Today, Community Centred Action is a child rights NGO that has both adapted to the state and donors, but has maintained its focus on rights. It is not an activist movement without any limits to the types of strategies it can adopt, but rather an organisation with activist roots and activist strategies *within* limits set by external actors and social and historical context. Returning to the struggle-to-service spectrum of NGO identities, Community Centred Action is thus an example of how an NGO is being pulled away from its original placement on the *sangharṣ* end and in towards the centre of the spectrum.

I will take as my point of departure the value of “empowering” marginalised communities, which was one of the most prevalent values in the organisation. Sharma has analysed the NGO strategy of “empowerment” as being closely related to “the global diffusion of neoliberal regulatory mechanisms.”<sup>786</sup> As states retreat and outsource responsibility to NGOs, NGOs in turn farm out by “capacitating” individuals and communities to be responsible for their own development.<sup>787</sup> This framing of “empowerment” is thus both compatible with an NGO’s ideals of working rights-based – strengthening communities to claim their rights – and with the neoliberal state’s expectations. The meaning of “empowerment” in Community Centred Action is both a result of the early activist ideas and dreams of the NGO founder, and of the influence from the state and foreign funders that dictates what

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<sup>785</sup> Community Centred Action is just one of many Christian Dalit organisations in Tamil Nadu. See other examples in Gorringe, “Beyond ‘Dull and Sterile Routines’: Dalits Organizing for Social Change in Tamil Nadu;” Justin Pallickal Jose, Vinod C. V, and A. Shahin Sultana, “Dalits in the Catholic Church of South India: Dimensions of Discrimination” *Voice of Dalit* 6, no. 1 (2013).

<sup>786</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 64.

<sup>787</sup> Ibid.

“empowerment” can, in practice, consist of: Dalit activism has its limits. I give two examples of the kind of activism (within limits) that Community Centred Action practices. The first is an example of “empowering” village women to “speak up” during a village assembly and the second is an example of trying to affect state policies through targeted advocacy combined with “empowerment.” Both examples are drawn from Community Centred Action’s donor reporting in which they proudly showed their “creation” of an active community.

#### *6.4.1.1. Activism within limits*

Mosse and Nagappan have shown how the 1980s and 1990s represented an opening of political space for Dalits in Tamil Nadu.<sup>788</sup> Typical Dalit leaders were those with personal experience of village untouchability,<sup>789</sup> just like Thomas. It was common for these leaders “to work in their own localities for roads or electricity,” and to engage in “struggles over caste dignity at temples/churches or funeral sites.”<sup>790</sup> Mosse and Nagappan further examine the entry of international donor NGOs into these Dalit struggles, which led to the latter having to formalise and translate their work into a globally understandable development jargon in order to access funding.<sup>791</sup> They also look at how NGOs combine “movement work” – networking, coalition building, advocacy and popular protest – with the funding, reporting and projectised relationships that are typical of “NGO’ing.”<sup>792</sup> The same is evident in Hugo Gorringer’s study, which argues that due to a lack of resources, Dalit movement leaders in Tamil Nadu often end up focusing on “community building,” establishing networks and “chasing up officials” because it is more effective within the resource limits that they have – despite the fact that they may wish to engage in more protest

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<sup>788</sup> Mosse and Nagappan, “NGOs as Social Movements: Policy Narratives, Networks and the Performance of Dalit Rights in South India,” 137.

<sup>789</sup> *Ibid.*, 138.

<sup>790</sup> *Ibid.*

<sup>791</sup> *Ibid.*

<sup>792</sup> *Ibid.*, 135.

based activities.<sup>793</sup> This is also true for Community Centred Action, who have chosen to go from more radical means, that led to imprisonment and death of activists, to focus on educating Dalit children and becoming a child-focused NGO. Community Centred Action thus fits into a typical picture of Dalit organisations in the 1980s and 1990s.

While some Dalit organisations, as in Mosse and Nagappan's study, found a new momentum in their fight for Dalit rights as human rights in the 2000s, when international human rights movements began advocating for Dalit rights in international arenas, Community Centred Action had already shifted its focus to educating Dalit children and later other marginalised children, to finally become more of a child rights NGO than a Dalit rights NGO. The type of activism that Community Centred Action does and can do is thus not limitless, and an NGO of this small size works within many boundaries. One of the strategies that Community Centred Action finds both doable, transformative, and accepted by the state and donors is to "empower" marginalised communities in order to create an active community that fights for children's rights.

#### *6.4.1.2. Creating rights-claiming communities*

One of Community Centred Action's main strategies to mobilise citizens was the creation and training of groups that they called Village Committees, Child Rights Clubs and Village Associations. These groups consisted of primarily village-based women and youth with Dalit backgrounds. The NGO engaged them in activities, trainings and meetings about child rights, in order to create an active community which would take advocacy in its own hands and claim its rights.

In a report to its donor, Community Centred Action writes about how the NGO-trained Village Association members participated in a Gram Sabha meeting (an official village assembly) to put child rights and child protection on the village's official agenda. The report emphasised that the NGO had managed to build "confidence" and "capacity" in village women who now

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<sup>793</sup> Gorringe, "Beyond 'Dull and Sterile Routines': Dalits Organizing for Social Change in Tamil Nadu."

dared to raise questions at the village assembly. A woman's question at the Gram Sabha is described to have "silenced everyone at shock that she had asked a question."<sup>794</sup> The report also emphasised that the fact that the women spoke up taught the wider public that they could also do so, thus creating a broader more active community than just the one that Community Centred Action had trained: "[t]he other Village Association members supported their fellows and raised the same questions to the duty bearers."<sup>795</sup> Finally, the report showed pride in the reactions of the duty bearers – the officials – who little by little were changing their mind-set about the participation of the women in the meetings. The Panchayat Clerk<sup>796</sup> is quoted to have said that: "I first thought that they were distracting the meeting, but they are actually very involved in child rights work and the development of village children, which is really motivating me."<sup>797</sup> It is thus the NGO's "creation" of an alert and aware community that is the central achievement that they report about, rather than the specific child rights issues in the village. The report quotes a Village Association member, who states that: "[b]efore joining this child rights association, we have been attending these Gram Sabha meetings without knowing what it really was. But we have learnt so much from Community Centred Action. The trainings and the meetings have improved us in raising questions to the duty bearers."<sup>798</sup> The NGO's core job here, as it sees it itself, is to empower rights holders to be watchdogs of duty bearers, a term they use to denote local officials.

#### *6.4.1.3. Contributing to policy outcomes*

Besides empowering communities, another important strategy for Community Centred Action was "targeted advocacy," or liaison with sub-district level state departments working with children. Much reporting and planning was spent on activities like "mapping stakeholders" at various

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<sup>794</sup> Community Centred Action's quarterly Progress Report to their donor, December 2019-February 2020. The document is with the author.

<sup>795</sup> Ibid.

<sup>796</sup> A Panchayat Clerk is a secretary at the village council.

<sup>797</sup> Ibid.

<sup>798</sup> Ibid.

administrative levels and on meeting state actors, like the Child Welfare Committee, to foster collaboration. As an example of this, Community Centred Action reported to its donor how its work had contributed to pressuring the Tamil Nadu Education Department to draft a Child Policy for the first time:

Community Centred Action established Village Committees and trained the members on the importance of a child policy. The Village Committee members insisted on the need for a child policy in the rallies and big gatherings they participated in. Community Centred Action placed demands on the taluk<sup>799</sup> and district officers. Community Centred Action made requests to the School Management Committees and Parent-Teacher Association meetings in schools. Community Centred Action trained 20 teachers from 10 villages as child rights ambassadors.<sup>800</sup>

This excerpt shows how the value of community empowerment makes both state, NGOs, and “the community” necessary actors for fulfilling rights: civil society organisations “empower” the community; the community demands rights from the state; and the state fulfils them. To sum up, in constructing their NGO identity as a rights-based organisation for children, Community Centred Action emphasises the fact that they should “empower” communities to claim rights. This is an identity with roots in their history of being part of an earlier Dalit movement, but it is also affected by donor and state demands (which I detail below). The point here has been that the history of the earlier Dalit activism was part of shaping the NGO’s later identity as a rights-based organisation, creating a new and particular rights culture. Now, I turn to the NGO Suraj and one of its core values, namely that of “serving” less fortunate communities.

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<sup>799</sup> *Taluk* is an administrative level below the district level.

<sup>800</sup> Community Centred Action’s reporting on outcomes. This is my rephrasing of the report where I have anonymised actors and corrected grammar.

#### 6.4.2. An NGO delivering rights: *Samāj sevā*

Suraj is also a rights-based children's organisation, but their understanding of working rights-based is different from Community Centred Action's. This is, I argue, partly due to the history of voluntarism that shaped Suraj's work. Suraj's employees drew their child rights work on a tradition of serving less fortunate communities than their own. Its employees described the work they did as *samāj sevā*, or using the English terms "social work" or "social service."<sup>801</sup> But *samāj sevā* is not just a Hindi translation of these terms.<sup>802</sup> Using the term *sevā* plays into a long history associated with Christian missionary discourses,<sup>803</sup> with Hindu reform movements and anti-colonial projects (significantly Gandhi's nationalist one),<sup>804</sup> with Nehru's postcolonial developmental project, and with the militaristic Hindu Right,<sup>805</sup> all the while remaining an "NGO-term" signifying a person or an organisation that serves others. Taking point of departure in the concept of *sevā* will allow me to analyse how Suraj worked with rights as something that it as a moral mediator

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<sup>801</sup> For instance, interview no. 1; interview no. 2.

<sup>802</sup> *Samāj* in itself can be translated as "community," "society," and "caste" (Ronald Stuart McGregor, *Oxford Hindi-English Dictionary* (Delhi: Oxford University Press, 1993).

<sup>803</sup> Malini Bhattacharjee argues that *sevā* to some extent replaced a concept more rooted in Hinduism, *dānā puṇya* (a form of charity that leads to gains in spiritual merit) as it, in an emulation of Christian missionary institutions, was "metamorphosed to a more modern form of service that came to be defined as *sevā*" (Malini Bhattacharjee, "Sevā, Hindutva, and the Politics of Post-Earthquake Relief and Reconstruction in Rural Kutch," *Asian Ethnology* 75, no. 1 (2016): 80.). See also Srivatsan, cited in Gopal Guru, "Foreword" in *Seva, Saviour, and State: Caste Politics, Tribal Welfare and Capitalist Development*, ed. R. Srivatsan (New Delhi: Routledge, 2015), ix.

<sup>804</sup> Srivatsan, *Seva, Saviour and State: Caste Politics, Tribal Welfare and Capitalist Development*, 3-4.

<sup>805</sup> Bhattacharjee argues that the rise of Hindu nationalism can partly be attributed to a grassroots work strategy centered around *sevā* and that using the *sevā* discourse is a way for the Hindu right to clothe their work in humanitarianism (Bhattacharjee, "Sevā, Hindutva, and the Politics of Post-Earthquake Relief and Reconstruction in Rural Kutch"). The NGO that I study did not have ties to Hindutva, and the Hindu nationalist use of *sevā* did not seem to have had much influence on their language. I therefore do not attend to that understanding of *sevā* here, but for interesting analyses, see *ibid.*; Devika Bordia, "The ethics of des seva: Hindu nationalism, tribal leadership and modes of sociality in Rajasthan," *Contributions to Indian Sociology* 49, no. 1 (2015).

between citizens and state was to deliver. But it is first necessary to introduce the concept in some detail.

#### 6.4.2.1. *Sevā: Voluntary or public social work?*

*Sevā* is a concept that over the years has been claimed by both civil society and the state – from a Gandhian type of social service that left the state irrelevant,<sup>806</sup> to the Nehruvian developmental state where *sevā* was an underlying philosophy of the state's duty to fulfil the social and economic Directive Principles.<sup>807</sup> *Sevā* has also always been a concept with an implicit hierarchy written into it: there is the *sevak* who provides service and the beneficiary who receives it. Srivatsan sums up the moral content of *sevā* in the following way: “[w]hat you need, I have chosen to give.”<sup>808</sup> The hierarchy is one between those less fortunate and those in a position to help them. In this sense, *sevā* can be said to be close to values such as voluntarism and charitable work,<sup>809</sup> which imply a hierarchy between a beneficiary and a *sevak*, the one who serves. In some cases, *sevā* has explicitly consisted of upper caste Hindus “serving” Dalits.<sup>810</sup> Thus, while *sevā* has historically been regarded as the “duty” of upper castes, it was also their privilege.<sup>811</sup> Much of “actually existing civil society in post-independence India,” Srivatsan argues, has come to “function through the caste-Hindu idiom of (...) seva.”<sup>812</sup> This “actually existing civil society” is what Suraj is part of, and I now turn to how *sevā*, in Suraj, manifested itself as something virtuous, but with an implicit hierarchy.

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<sup>806</sup> Ajay Skaria, “Gandhi's Politics: Liberalism and the Question of the Ashram,” *The South Atlantic Quarterly* 101, no. 4 (2002); Srivatsan, *Seva, Saviour and State: Caste Politics, Tribal Welfare and Capitalist Development*, 4.

<sup>807</sup> Srivatsan, *Seva, Saviour and State: Caste Politics, Tribal Welfare and Capitalist Development*, 4-5; Nehru, quoted in Corbridge et al., *Seeing the State: Governance and Governmentality in India*, 55.

<sup>808</sup> Srivatsan, *Seva, Saviour and State: Caste Politics, Tribal Welfare and Capitalist Development*, 3.

<sup>809</sup> *Ibid.*, 104.

<sup>810</sup> *Ibid.*, 51.

<sup>811</sup> *Ibid.*, 52-53.

<sup>812</sup> *Ibid.*, 19.



#### 6.4.2.2. *Sevā in the contemporary rights-based NGO sector*

The previous chapter showed that the part of the NGO sector in India that works with children as beneficiaries has, over the last couple of decades, increasingly adopted a “rights-based” framework. At the same time, NGOs such as Suraj exist in a position of being implementers of the state’s rights schemes. What then happens to the concept of *sevā* when it meets the rights discourse? In theory, the implicit voluntarism and hierarchy of *sevā* stand in opposition to this human rights discourse which with its emphasis on rights holders as opposed to those giving or providing rights, envisions a citizen that is not dependent on anyone’s goodwill and a political system that will ensure justice for everyone as a matter of right. As Srivatsan points out, *sevā* is, conversely, based in a language of duty (appeal) rather than in a language of rights (assertion).<sup>813</sup> In other words, there is a large conceptual divide between doing *samāj sevā* – a charitable act towards others – and claiming rights on one’s own behalf. This is also different from the values that we saw in the case of Community Centred Action where the NGO played the intermediary role of teaching a “rights-based mindset” to a village-based community which in turn would claim rights from the state. In the *sevā* logic, the beneficiary is more passive and the NGO plays the role of “giving” or “providing” rights.

However, the NGO workers at Suraj saw no contradiction in children having rights and NGO-based social workers being the ones who “gave” these rights to children. As the employee Radha said:

No one can snatch the right to study away from them. If they want to study, then we try to get them to school. And if they don’t want to study then we try to encourage a wish to go to school in them.<sup>814</sup>

Here, Radha first establishes that children’s right to study cannot be taken away by anyone. Then she explains the role of herself, the social worker: to get children to school, and if that does not succeed, to encourage them to feel that they need this right. In some ways, this is similar to Community Centred Action’s approach, but the key difference is that Community Centre Action

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<sup>813</sup> Srivatsan, cited in Guru, “Foreword,” viii.

<sup>814</sup> Interview no. 3.

does not take “sending children to school” as their starting point for working with the right to education. Rather, the starting point is to teach a rights-based mindset to communities and parents, and that is, in fact, the entire job for the NGO. At Suraj, on the other hand, the NGO’s job is not done until the child actually goes to school – when the right is, so to speak, “delivered.”

Generally, a discussion on the topic of children’s rights led the majority of Suraj’s employees into arguing that child rights are whatever children *ought to have* (what “*honā cāhie*” or “*milnā cāhie*”). As Pradeep expressed it,

A good childhood is that children have a right (“*haq*”) to live the lifestyle they want. They should get education. They should get good food, they should get good clothes, their care needs to be good (...), whatever children want to participate in, they should. Whatever their right is, they need to get it.<sup>815</sup>

If children’s rights were defined in terms of what “should be there” (“*honā cāhie*”), the social worker’s job was defined in terms of what “needs to be done” (“*karnā cāhie*”). This places the social worker as a key deliverer or giver of children’s rights, which connects back to the giver-beneficiary logic of *sevā*. According to the informants, social workers needed to tell children what kind of work they should do and not do and which habits were good and bad, spend time with them, counsel them, show them right values and help parents who were not in a position to let their children study. Prashant specified that “we,” implying those who are literate (“*padhe-likhit*”), have a special responsibility for this.<sup>816</sup> This resonates with the Gandhian version of *sevā*, according to which it is a hierarchical act that the more fortunate do for the less fortunate. Many of Suraj’s employees were, in addition, proud to tell me that they voted for Modi and the BJP. Their own political allegiances were therefore, contrary to many of the employees of CHILDLINE India Foundation that I talked to, not contradictory to them being part of a neoliberal outsourcing model: they considered Modi as bringing “development” to India and their own *sevā* as compatible with this.

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<sup>815</sup> Interview no. 4.

<sup>816</sup> Interview no. 13.

Just as we saw above with the value of community empowerment, *sevā* is a value that makes both civil society and the state indispensable for rights fulfilment. But in contrast to the community empowerment value, the “beneficiary” or rights holder is less active in a *sevā* discourse. The *sevak* can be voluntary activists or government servants, but the third party is a relatively passive recipient.<sup>817</sup>

#### 6.4.3. Shaping the NGO identity through values

This section has shown how particular histories of activism or voluntarism are part of shaping the values that create an NGO’s identity, and thus the values that shape particular understandings of rights and duties. Both value sets – Dalit activism in the first case and *samāj sevā* in the second<sup>818</sup> – are examples of the “non-pure” element in vernacular rights cultures. They are not value sets that exist in a vacuum: they interact with and are partly shaped by discourses that belong to the global NGO sector and Indian state developmentalism and neoliberalism. The key difference between the two cases is whether the NGO understood itself as a teacher of rights to citizens or as a deliverer rights (or services that they have a right to) to beneficiaries. One can be characterised as an understanding based in activism and the other in voluntarism.<sup>819</sup> Nevertheless, both cases embody the idea that NGOs have a duty towards children’s rights (whether that duty is to “teach” or “deliver” rights).

Thus far, I have analysed how the two NGOs respectively developed an identity for their organisation. The founder, origin story, and value sets examined so far, are those parts of an NGO’s identity that it uses to distinguish itself from others – as we have seen, by placing itself on a spectrum from *sevā* (service) to *sangharṣ* (struggle). In contrast, the next two that

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<sup>817</sup> Srivatsan, cited in Guru, “Foreword,” ix.

<sup>818</sup> Again, this is not to say that Suraj did not show any “empowerment”-like values, or that Community Centred Action did not show any *sevā*-like values. Rather, I have shown different parts of the struggle-to-service spectrum of rights-based NGO identities where one focuses more on teaching rights, and another on delivering rights.

<sup>819</sup> Baxi, “Activism at Crossroads with Signposts,” 60.

influences I will look at are part of homogenising identities and creating a common identity for the NGO sector – a sector that is enmeshed in national and global networks.

## 6.5. The technomoral language of donors: homogenising small NGOs

Donors are the third part of Subramaniam's characterisation – “the hero, the halo, and the funds” – of the success of small NGOs.<sup>820</sup> I will in this section demonstrate that the values of donor organisations are a crucial part of shaping an NGO's identity through funds. At the time of research, Community Centred Action was funded by a Danish NGO and CHILDLINE India Foundation; while Suraj was only funded by CHILDLINE India Foundation. A key influence of the donors was the introduction of a common “technomoral” NGO vocabulary. This is a specific vocabulary that strategically combines the “technocratic languages of law and policy with moral pronouncements.”<sup>821</sup> Bornstein and Sharma argue that both the state and NGOs in India use this to “assert themselves as virtuous agents, marking their political legitimacy as keepers of the public interest.”<sup>822</sup> I found that this term captures the vocabulary that is created in the space of exchanges between small NGOs and their larger NGO donors. As we will see, when the vocabulary around “doing good” is “rendered technical,”<sup>823</sup> it is arguably also rendered non-threatening, and thus consistent with the Indian state's positing of the ideal NGO.

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<sup>820</sup> Subramaniam, cited in Sheth and Sethi, “The NGO sector in India: historical context and current discourse,” 59.

<sup>821</sup> Bornstein and Sharma, “The righteous and the rightful: The technomoral politics of NGOs, social movements, and the state in India,” 76.

<sup>822</sup> Ibid.

<sup>823</sup> Tania Murray Li, “Problematising the Project System: Rural Development in Indonesia,” in *The Projectification of the Public Sector*, ed. Damian Hodgson et al. (New York: Routledge, 2019), 59.

I will demonstrate how outside actors, like donors, encourage the perception of NGOs as particularly virtuous actors through this specific language – a language that promotes small NGOs as morally well positioned to address child rights violations, but also demands that such acts of “doing good” are framed in particular terms that either fit with the project management trend of the global NGO sector (6.5.1) or the Indian legal terminology around child protection (6.5.2). In 6.5.3, I turn to previous scholarship on donor influences, the effects of “homogenisation” on NGOs<sup>824</sup> and “mission drifts.”<sup>825</sup>

### 6.5.1. Spreading the “duty bearer” language through a foreign funded project

Since the 1990s, Community Centred Action has been funded by a small, Danish NGO that I call Child Support. Despite its own origin story of being a charity-based, Mother Teresa support group,<sup>826</sup> at the time of research, Child Support was thoroughly “NGOised” and “rights-based.”<sup>827</sup> Instead of collecting money for schools and orphanages as it had done in its early days, it now only worked within project frameworks, i.e. completing projects with start and end dates, secured funding, and specific indicators, targets, and goals. In the following part, I focus on one of these child rights projects that was developed between Community Centred Action and Child Support. The

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<sup>824</sup> Merry, “Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization.”

<sup>825</sup> Bennett and Savani, “Surviving Mission Drift: How Charities Can Turn Dependence on Government Contract Funding to Their Own Advantage.”

<sup>826</sup> Founded in the 1960s, Child Support was part of what O’Sullivan has called the “NGO moment” of Western compassion and moral responsibility for the “Third World” in that period (O’Sullivan, *The NGO Moment: The Globalisation of Compassion from Biafra to Live Aid*, 25).

<sup>827</sup> Interestingly, this adoption of a child rights-based strategy is not far from what happened to CHILDLINE India Foundation as we saw in Chapter 5. The human rights language homogenises the more activist (CHILDLINE) and the more charity-based (Child Support) NGOs to exist somewhere in the middle of the struggle-to-service spectrum: what one might call professionally rights-based.

project created Child Rights Clubs in ten villages to teach children about their rights, mobilised children and parents to demand them from village-level state actors, and held training sessions for local police, teachers, and village-level state representatives to teach them about their legal responsibilities as “duty bearers.” As pointed out by Watkins et al., the funding chain in such “partnership projects” can be quite long.<sup>828</sup> In this case, it went from DANIDA (Danish foreign aid), to DANIDA’s daughter organisation Civil Society in Development, to Child Support, and then to Community Centred Action. It is also well-known that, through such funding chains, “Northern” NGOs can influence and restrict their “Southern” partners, as the Southern partner’s “original” mission drifts in different donor-affected directions.<sup>829</sup> In my case, we will see how the idea of the state as an ideal legal duty bearer was imagined and upheld by the donor despite the fact that the reality of a sub-district level town in South India did not comply with this picture. Even though Community Centred Action had identified with fighting for people’s rights since long before their Danish partner adopted a rights-based strategy, the latter still brought a new type of rights vocabulary to Community Centred Action where the “duty bearer” was particularly present. Consider for instance this excerpt from a funding application written by Child Support:

India has a range of government bodies, departments and boards responsible for upholding the laws concerning children’s rights. However, many officers hired to enforce the laws are not aware of neither the content of the laws nor their own role and obligations. The first step in securing enforcement of the laws is thus to make the officers (hereafter referred to as duty bearers) aware

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<sup>828</sup> Watkins, Swidler, and Hannan, “Outsourcing social transformation: Development NGOs as organizations.”

<sup>829</sup> Harri Englund, *Prisoners of Freedom: Human Rights and the African Poor* (Berkeley: The University of California Press, 2006); David Hulme and Michael Edwards, “NGOs, states and donors: Too close for comfort?” in *Between co-option and irrelevance? Latin American NGOs in the 1990s*, ed. Jenny Pearce (New York: St. Martin’s, 1997); Merry, “Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization”; O’Sullivan, *The NGO Moment: The Globalisation of Compassion from Biafra to Live Aid*; Terje Tvedt, *Angels of mercy or development diplomats: NGOs and foreign aid* (Trenton: Africa World Press, 1998).

of children's rights according to the existing laws as well as their role and obligations.<sup>830</sup>

In another example, one of the project's objectives was that "[l]egal duty bearers responsible for children's rights have improved knowledge on their legal obligations and have been motivated to enforce the existing laws,"<sup>831</sup> and an indicator of that was that "70% of the targeted duty bearers have taken direct actions to enforce the law."<sup>832</sup> There is thus an expectation that "duty bearers," with the right push from civil society and through funding from "Northern" NGOs will fulfil their duties. Finally, there is also an expectation that the NGO's work is only temporary and that in the end, the rights holders themselves will "take over the responsibility."<sup>833</sup>

The language of rights-holders and duty bearers was not only present in Child Support's documents, but also became an integrated part of the way Community Centred Action's personnel talked about their work. For example, Acelin described how he would talk to Village Health Assistants (a state function): "You are (...) duty bearers. What is your duty? Give pills, (...) improve the nutrition."<sup>834</sup> Another example is when I asked one of Community Centred Action's employees about who he considered responsible for protecting children's rights. I was interviewing him with Sunita as a translator and, to clarify my question, she asked me "[do] you mean the duty bearer?" I had deliberately not used this term since I considered too technical, but it was clearly an integrated part of her English vocabulary.<sup>835</sup>

Furthermore, aside from language – in documents and conversation – Community Centred Action also practically worked with the "rights holder and duty bearer" framing. For instance, it awarded the "best duty bearer" with an annual prize to encourage local state actors, such as the District Child

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<sup>830</sup> Child Support's funding application to Civil Society in Development. The document is not public, but with the author.

<sup>831</sup> Ibid.

<sup>832</sup> Ibid.

<sup>833</sup> Ibid.

<sup>834</sup> Interview no. 8.

<sup>835</sup> Interview no. 11.

Protection Unit, to work more with child rights.<sup>836</sup> It also used the duty bearer language in reporting back to Child Support. For example, Community Centred Action described a meeting it had held with local officials with the objective to “make government duty bearers (...) do child protection work without fail [sic]” and “to indicate roles and responsibilities of duty bearers in protecting child rights to government staff and panchayat leaders.”<sup>837</sup> This again illustrates how the term “duty bearer,” which had entered the small NGO through their donor, had become part of the NGO’s technomoral vocabulary. In many ways, this “North-South partnership” introduced terminology that was intended to “NGO-ise” the more activist movement and organisation that Community Centred Action was before the entry of the foreign donor. The NGO was not rights-based *because* of the foreign donor, but the foreign donor made it able to conduct large-scale rights-based activities and brought a technical vocabulary of objectives and indicators as well as the technomoral language of “rights holder and duty bearer.” Child Support can be seen as part of a larger group of Northern NGOs which frames Southern NGOs as eligible project implementers to supplement “inadequate” Southern states. I now turn to the influence of another donor, CHILDLINE India Foundation, which funded both Community Centred Action and Suraj.

### 6.5.2. CHILDLINE: spreading a national child protection discourse

The fact that the two NGOs that I studied had a common donor, CHILDLINE India Foundation, allows for a comparison of how CHILDLINE’s vocabulary and practices affected two small NGOs in different parts of India. We saw in the previous chapter that CHILDLINE’s partner NGOs agree to “internalise” certain values that are part of the CHILDLINE brand.<sup>838</sup> But how do these values and their transmission affect

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<sup>836</sup> Internal organisational document. The document is with the author.

<sup>837</sup> Internal quarterly report from December 2021-February 2022. The document is with the author.

<sup>838</sup> CHILDLINE India Foundation, *Laying the Foundation: getting started and taking off*, 43; 61.



the work of the smaller partner NGOs? I will in this section argue that CHILDLINE's influence manifests itself in an NGO's values in two ways. First, it creates a common nationwide vocabulary on child rights issues, similar to the technomoral vocabulary of the foreign donor that was discussed above – less in “project management” terms and more in the legal terms used in Indian national child protection law. This language was able to be spread across CHILDLINE's NGO partners due to the “group of believers”<sup>839</sup> in CHILDLINE's brand that the NGO network created. Second, the fact of being a CHILDLINE implementer can hamper an NGO's more activist leanings, since it has to appease a governmental donor, which moves them away from the *sangharṣ* (struggle) end of the struggle-to-service spectrum. In sum, this can be interpreted as a homogenisation of difference in NGO value sets<sup>840</sup> and “mission drift.”<sup>841</sup>

#### 6.5.2.1. *A common vocabulary*

To understand the influence of being part of a national network like CHILDLINE, consider the following two stories of how Suraj and Community Centred Action chose the exact same focus areas for their work, or at least used the same vocabulary to frame the focus areas.

In April 2019, we were having a staff meeting at Suraj to discuss what thematic areas to prioritise in outreach and awareness activities for the coming year. We – that is, Jagadish, the Coordinator Pradeep, six team members and myself – sat around the office's largest table, each with notepads in front of us. We were brainstorming from an apparently blank canvas, as Jagadish had simply asked us what we thought should be the focus areas. Pradeep suggested “child labour” and “child beggar.” These were both names of categories that they put children in when they received cases through CHILDLINE. Radha said that they got a lot of cases of adolescent girls who had run away from

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<sup>839</sup> Mosse, *Cultivating Development: an ethnography of aid policy and practice*, 172. See also Chapter 5.

<sup>840</sup> Merry, “Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization.”

<sup>841</sup> Bennett and Savani, “Surviving Mission Drift: How Charities Can Turn Dependence on Government Contract Funding to Their Own Advantage.”

home. She therefore suggested another CHILDLINE category, “child lost and found,” as a thematic area. “No,” said Jagadish. “That’s not an issue, that’s an outcome. How can you make awareness about that? And,” he added to Pradeep, “child beggar is a sub-category of child labour.” “Why do the girls run away?” I asked Radha. “They have affairs with people from a different caste, therefore the parents force them to marry someone from their own caste when they are too young, and then they run away,” she responded. Basanti nodded in agreement. “So what’s the issue – affairs?” half-joked Jagadish. He then, in a more serious tone, suggested that a thematic area could be child marriage. Pradeep summed up, “child labour, child marriage.” Jagadish suggested “child abuse” as the last one.<sup>842</sup>

A few years earlier, in a small town in Tamil Nadu, Community Centred Action was developing their foreign-funded child rights project in collaboration with their Danish donor NGO, and chose the exact same three focus areas: child labour, child marriage, and child abuse. In the funding application for the project, it was argued that:

These rights violations have been identified as main obstacles for children to get access to schooling and hence be able to create their own life. The three rights violations are all common in the project area but are not addressed systematically, despite the clear legal framework.<sup>843</sup>

The fact that these two organisations, working in different parts of India, in apparently bottom-up processes came up with the same three thematic focus areas, of course says something about the most prevalent problems of children in India. But it also says something about the language in which children’s problems are spoken about. Through the work of CHILDLINE and through national acts, both organisations used terms known in the Indian child protection sector. There was thus an observable similar terminology, coinciding with the one discernible in national child protection acts, in the everyday work of CHILDLINE partner NGOs from different parts of India.

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<sup>842</sup> Field notes, 6 April 2019.

<sup>843</sup> Non-public fund application. The document is with the author.

#### 6.5.2.2. *Government sub-contractor or activist?*

Community Centred Action faced a struggle in continuing its activist strategies and image while concurrently maintaining friendly relations with the local state actors that worked with children, whose collaboration they needed for CHILDLINE cases. It wanted to push state actors such as the Child Welfare Committee and the police to work more with child rights and child protection, but could not risk provoking them by, for instance, trying to influence at higher levels higher than the *taluk*. Its work with the state was thus – despite its wishes – limited to being more of a convener than a critic due to their role as a state scheme implementer.

In 2020, Community Centred Action received a notice from CHILDLINE India Foundation that they would no longer be sub-contracted to run the helpline. The reason provided was that CHILDLINE India Foundation wanted to reduce the number of partner NGOs due to a bifurcation of the district. Thomas and others at Community Centred Action suspected that there had also been politicians at work who wanted to diminish the influence of Christian NGOs and that the other CHILDLINE NGO partners did not like that Community Centred Action had grown big and were doing district level advocacy with foreign funding. Community Centred Action had to let go of some staff members due to this change, but were otherwise not hit financially very hard because of the much larger, on-going foreign funded projects.<sup>844</sup>

Despite the apparent negative aspects of losing a project, Community Centred Action took the news rather lightly. At a Skype meeting where Thomas and other staff members informed Child Support about the news, they immediately argued for all the positive consequences: because they no longer had a “direct intervention” project in collaboration with the state, they could do much more advocacy and put pressure on officials. In CHILDLINE cases, Community Centred Action staff had often gone to villages with the state representatives, such as the police, which, in their words, “pacified villagers.”<sup>845</sup> Now, they could mobilise them instead. It is thus clear that the

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<sup>844</sup> Skype meeting notes, 24 June 2020.

<sup>845</sup> Skype meeting notes, 24 June 2020.

“partnership” with the state had influences on how a small NGO perceived the state: when in partnership, it was an ally “against” citizens; when out of the partnership, it was an institution it demanded something from together *with* citizens.

### 6.5.3. Mission drifts and homogenisation of difference

We have thus far seen that Community Centred Action and Suraj used similar vocabularies on children’s issues, and that they, due to donor influences, were limited in their strategies. Being part of larger national and international networks thus homogenised their language and practices. In a study of a state funded social service agency, a large church and a network of practitioners all working against gender violence in Hawai’i, Merry has observed that despite the fact that these three represent very different approaches (one based in rights, one in religion, and one in community), they all experienced a shift to a more mainstream “service delivery bureaucracy” approach in their work against gender violence when they all became part of transnational movements.<sup>846</sup> This, Merry argues, represents a homogenisation and a “colonisation of difference”<sup>847</sup> stemming both from the transnational movements and from each organisation’s imperative to maintain itself.<sup>848</sup> It is similar to the phenomenon of “mission drift,” where an NGO experiences pressure from external actors – often funders – to shift their work away from their original objectives.<sup>849</sup> It is also relatable to Terje Tvedt’s observations of how donors incentivise smaller NGOs to communicate in the same language and adopt their donors’ values, which results in “institutional isomorphism”

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<sup>846</sup> Merry, “Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization,” 251, 61.

<sup>847</sup> Ibid., 262.

<sup>848</sup> Ibid., 261.

<sup>849</sup> Bennett and Savani, “Surviving Mission Drift: How Charities Can Turn Dependence on Government Contract Funding to Their Own Advantage.”

where NGOs take on the same form.<sup>850</sup> This is a process that changes NGOs' identities to become more uniform.<sup>851</sup>

Such homogenisation is not one-sidedly positive or negative, but has both potentially harmful and helpful consequences. It prevents NGOs from doing bottom-up participatory work based on issues that are only of local relevance, but which may still be very important. Instead, they concentrate on issues that are of broader interest. This may make NGOs uniform in their strategies and issues, but it also enables groups of NGOs to scale up their advocacy efforts and create impact on a national level. As an example of the latter, CHILDLINE India Foundation was instrumental in an awareness campaign that involved national TV stars, which sought to de-tabooise child sexual abuse at the same time as it advocated for the adoption of a rights-based law on child sexual abuse. It thereby made child sexual abuse an explicit "issue" within child protection, and today it is one of the issues that local CHILDLINE implementers, such as Suraj and Community Centred Action, raise awareness about as we saw above. When Sonali from Suraj talked to young schoolgirls about "good touch" and "bad touch," she spoke in terms resembling CHILDLINE India Foundation's national awareness campaign.<sup>852</sup> At another occasion, I heard Sonali discuss with a colleague how she learnt about "good touch" and "bad touch" at a training session in a larger city. Other CHILDLINE NGOs, in other parts of the country, also hold sessions specifically on the theme "good and bad touch."<sup>853</sup> It was thus the fact of being part of a national rights network that allowed a de-tabooised language about sexual abuse to spread.<sup>854</sup> Despite the risk of losing a more

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<sup>850</sup> Tvedt, *Angels of mercy or development diplomats: NGOs and foreign aid*.

<sup>851</sup> Hulme and Edwards, "NGOs, states and donors: Too close for comfort?"

<sup>852</sup> Field notes, 7 February 2019. For the CHILDLINE awareness video, see CHILDLINE India Foundation, "KOMAL A film on Child Sexual Abuse CSA English," (India: Press Information Bureau (PIB) India, 22 July 2016). <https://www.youtube.com/watch?v=5cBQtZRbRJu&t=89s> (accessed 11 October 2023).

<sup>853</sup> CHILDLINE India Foundation, *Annual Report 2018-19*, 39; 68.

<sup>854</sup> For a detailed study of this, see Therese Boje Mortensen, "Adults as advocates: how child sexual abuse was put on the child rights map in India," in *Childhood, Youth and Activism: Global Perspectives on Demands for Rights and Justice from Young People and their Advocates*, ed. Katie Wright and Jule McLeod (Emerald, Forthcoming 2024).

activist organisational identity, being part of national network simultaneously allows smaller NGOs to tap into larger campaigns and to thereby be part of creating change on a larger scale.

To return to the overall theme of donor influence on an NGO's identity, it is doubtless that donors bring a new language to small NGOs, often in the form of a decontextualised, "technomoral" vocabulary that resonates broadly in the donor's national or international context. At times, but not always, this leads to a drift away from the NGO's original mission (i.e. from struggle to service). An umbrella organisation like CHILDLINE India Foundation thus contributes to a homogenisation of otherwise very different small child rights NGOs across India. I now turn to the last and related influence on NGO identities that I will highlight: the state.

## 6.6. Conditioning NGOs through state regulation

So far, I have discussed how the two NGOs' identities and values were influenced by what Subramaniam has called "the hero, the halo, and the funds."<sup>855</sup> However, a fourth factor is at least equally important in constructing small NGOs' identities and shaping their strategies: the state that they operate within. The state is a donor ("the funds"), but it is also a regulator in relation to the two NGOs, and it therefore has a particular and significant influence on small NGOs' identities and missions. I will first show how the two NGOs, with increased state regulation, experienced bureaucratisation and restrictions of their work (6.6.1.). I then discuss how these restrictions affected their rights-based approach (6.6.2.). I argue that the meaning of a "rights-based approach" changes in a restrictive state such as India, since the NGOs could not always appeal to the state as an ideal and effective legal duty bearer. As the state supported "empowerment" of communities and to a certain extent retreated, the NGOs had to take responsibility for children's rights into their own hands – taking a moral duty upon themselves or attributing this duty to "com-

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<sup>855</sup> Subramaniam, cited in Sheth and Sethi, "The NGO sector in India: historical context and current discourse," 59.

munities.” As such, the NGOs’ missions drifted away from appealing to the state as a duty bearer (which the foreign funder encouraged) to appealing to “communities.” These conclusions demonstrate that the state has a significant influence when it comes to framing and homogenising NGO values and identities, not just through the use of a certain vocabulary, but also practically, as the state sets the legal framework within which NGOs operate. If the voluntary sector can be depicted as virtuous (because it fulfills the rights of children) but non-threatening (because it is still controlled by the state), then outsourcing policies are easily justified.

### 6.6.1. Effects of NGO regulation on small NGOs

Working according to regulations of the Indian state is an influence that Suraj and Community Centred Action have in common.<sup>856</sup> This section will show how India’s NGO regulation bureaucratised the two NGOs, how it affected their repertoire of strategies, and how especially the Foreign Contribution Regulation Act restricted their work. Together, these consequences contribute to mission drifts away from activist work and the discursive construction of ideal NGOs as non-threatening to the state.

#### 6.6.1.1. *Bureaucratisation of NGO work and copying state bureaucracy*

As we saw in Chapter 4, the Indian state – like other states – requires that voluntary organisations register in order to operate. This official registration was to a large extent seen as an accepted necessity at both Suraj and Community Centred Action. Jagadish even talked about the day he registered Suraj in a proud tone, signalling the importance of the official recognition by the state that his organisation was a legitimate NGO.<sup>857</sup> At Community Centred Action, they talked of the registration moment more as a necessity to receive funds and gain acceptance with local state actors, such as the police

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<sup>856</sup> Both organisations are registered under Societies Registration Acts, but not exactly the same one. Suraj is registered under the Madhya Pradesh Societies Registration Act and Community Centred Action under the Tamil Nadu Societies Registration Act. See Chapter 4 for details about the framework for NGO regulation in India.

<sup>857</sup> Interview no. 19.

and Child Welfare Committee. For both organisations, it did require some administrative burdens, such as having to research about previously unknown procedures, like writing bylaws,<sup>858</sup> or the burden of having to apply for renewal as a Society every year.<sup>859</sup> According to Thomas, it had become more difficult to be a voluntary organisation in India today than it was twenty years ago. This was, in his view, mainly because you now needed people with knowledge of law, audits and other professional skills in order to run a voluntary organisation. As he said, for people who were only social workers, these procedures were difficult.<sup>860</sup> But he also used the bureaucratic learnings to his own organisation's advantage, as Community Centred Action began teaching others how to form associations.

A big part of Community Centred Action's foreign funded child rights project was, as mentioned, to organise citizens in groups so that they themselves could claim rights and demand change from the state. In the first phase of the project, the organisation created various groups at the village level, such as Village Committees for adults and Child Rights Clubs for children. Then, they organised these groups together to form a Village Association, which was still an informal group. At the next phase, with more funding, Community Centred Action organised several Village Associations as one larger Umbrella Organisation. They taught the Umbrella Organisation about the Societies Registration Act, and finally registered it as an organisation. All this meant that formal organisational bureaucracy became a large part of the child rights project. Words like "Executive Committee," "General Body," and "bylaws" floated around in project reports, and in the Danish partner organisation we had a designated volunteer to advise Community Centred Action on "organisational development."

In this way, the government's formality and bureaucracy became mirrored in what was previously informal NGO work. Another example of this phenomenon is how Community Centred Action created formal-looking IDs for the Village Committee members. In one case, the Village Committee members

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<sup>858</sup> Ibid.

<sup>859</sup> Interview no. 9.

<sup>860</sup> Ibid.



had gone from shop to shop in their matching sari uniforms and IDs to inform shop owners and employees about child labour laws. They handed out their phone numbers so that employees could call them in case they got abused. This led to a female shop employee calling a Village Committee member to complain that the shop owner was blackmailing and beating her. As Thomas proudly commented after having explained how the Village Committee member had taken action and contacted relevant state authorities: “the village committee members have become officers. That is empowerment.”<sup>861</sup> But he also added an important difference: “Officers can be corrupted. A resilient community cannot.”<sup>862</sup> In this way, Community Centred Action had created their own cadre of non-corruptible officers by mirroring state practice.<sup>863</sup> However, NGO regulation did not only lead to positive outcomes, but also to restrictions.

#### 6.6.1.2. *The Foreign Contribution Regulation Act*

Small NGOs faced significant restrictions if they were registered under the Foreign Contribution Regulation Act, an act that allows them to receive funding from abroad.<sup>864</sup> Thomas argued that Community Centred Action’s foreign funding meant that the government was suspicious towards it and checked it endlessly, but receiving foreign funding also meant less corruption. For instance, he complained that local government-funded schemes would never be properly implemented and only existed on paper, because other NGOs were bribing government agencies:

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<sup>861</sup> Field notes, 16 March 2019.

<sup>862</sup> Ibid.

<sup>863</sup> The question of corruption within NGOs themselves is of course also potentially salient when discussing NGOs as virtuous actors. This was not something that was widely discussed or observed during my fieldwork with the NGOs – only briefly in relation to the Foreign Contribution Regulation Act. I am not suggesting that NGOs are incorruptible moral actors, but rather that that is how they are discursively constructed. For a discussion of “amoral” NGOs, see O’Sullivan, *The NGO Moment: The Globalisation of Compassion from Biafra to Live Aid*, 30; 75.

<sup>864</sup> See Chapter 4 for details about this act.

At least we have a fear that we'll lose some of our staff members if we do not get foreign funding and we have to be prompt in reporting. And I cannot bribe Therese to write a nice report about... [*both laugh*] because you don't have any interest in this. So it is that way, see, in Tamil there is a proverb: only the trees which give fruits will get a hit of stones. A tree that does not give fruit will be happy.<sup>865</sup>

His proverb is an expression of the fact that as an NGO receiving foreign funding, it had to be prepared to get “a hit of stones” from the government, but that was only proof that the work they were doing bore fruit.

Foreign funding evidently also led to problems. For instance, Thomas told me that, one day in 2014, he had been reading the newspaper and saw a list of all NGOs in Tamil Nadu who had gotten their Foreign Contribution Regulation Act certificate cancelled and, surprised, had found his own organisation's name on the list. The alleged reason was lack of reporting. Thomas then travelled by train from Tamil Nadu to Delhi with a suitcase full of documents, intending to show up at a government office to keep the certificate that allowed his organisation to receive foreign funding. He ended up getting the registration back.<sup>866</sup> Again, in late 2021, Community Centred Action got their FCRA license withdrawn due to lack of timely re-registration. During the Covid pandemic, deadlines for renewal applications had changed, and the NGO had missed a deadline. After that, a lengthy bureaucratic process began through which it had applied but was told and retold that the decision was “pending.” This meant that it could not receive any funding from its Danish donor. When I, in my capacity as volunteer for the Danish donor, Child Support, talked to Sunita during an online monitoring meeting, she was very worried about the actions of the central government who she said was hostile to Tamil Nadu. “They are tracking all organisations like us because they think we are doing religious [Christian] work. But we are child-based, we are giving awareness on child rights.”<sup>867</sup> Here, Sunita reasserted the perception that child rights was an innocent issue that the government should

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<sup>865</sup> Interview no. 9.

<sup>866</sup> Field notes, 19 March 2019.

<sup>867</sup> Sunita in online monitoring meeting, 23 February 2022.

support. In April 2022, Community Centred Action had not been able to receive foreign money for more than four months, which became critical for the organisation. They could not pay staff, resulting in several staff members quitting, and Sunita paid the little she could out of her own pocket and by selling her jewellery. We, the donors at Child Support, had an online meeting with Community Centred Action where the staff had called in a lawyer friend of Thomas to explain the situation. He talked about the “confusion” that existed within many organisations due to new technical terms, and we were shown a graph that 71% of organisations, like Community Centred Action, still had their renewal decision “pending.”<sup>868</sup> All of this means that Community Centred Action is feeling the crackdown on NGOs and that its future is very uncertain.<sup>869</sup>

For Suraj, Foreign Contribution Regulation Act registration was a far-off dream. As Jagadish said, there are

...lot of procedures, processes (...), if you apply for the FCRA (...), then (...) a lot of paperwork and processes is [sic] also there. And you're always on check. So this is good in terms of government, this is really very good, appreciable, but it is very (...) complicated for the small organisation[s] like us.<sup>870</sup>

He continued to explain that he could barely pay his staff members as it was and registering for foreign funding would require more staff just to keep up with the administration of it. He emphasised that he did not mind being checked, but that it was a question of not having enough staff. This meant that even though Suraj did not have to live up to the same administrative standards as Community Centred Action, it was more limited when it came to where it could apply for funds and the amounts it could apply for. Both of these NGOs are examples of how the existence of the Foreign Contribution Regulation Act affected them in a restrictive way. The act was thus part of the state's discursive construction of NGOs as ideally non-threatening actors

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<sup>868</sup> Online presentation by Community Centred Action, 11 April 2022.

<sup>869</sup> At the time of writing (October 2023), Community Centred Action is still waiting for their “pending” FCRA decision.

<sup>870</sup> Interview no. 19.

controlled by the state. In the next section, I consider how state regulation and control of NGOs limit their ability to work rights-based.

#### 6.6.2. “This is your village, so it is your responsibility that the children go to school”: conditioning the rights-based approach

The Indian state promotes the distribution of responsibility for rights and development through the creation of self-help groups and other forms of “community empowerment.”<sup>871</sup> Allowing this, and at the same time restricting NGOs’ ability to demand accountability from the state, results in a mission drift in terms of what kind of “rights-based approach to child protection” that can be practiced by small NGOs, as exemplified by Community Centred Action and Suraj.

A cornerstone of the rights-based approach for NGOs – at least as it is defined by the Convention on the Right of the Child – is, as we have seen, that there should be an effective duty bearer, the state, to whom they can appeal when claiming rights on behalf of children. This part of the rights-based approach is not realistic “in a context of economic liberalisation and the retreat of the state from social services,”<sup>872</sup> as Olga Nieuwenhuys has argued about the Ethiopian context, which resonates strongly developments in India. So what happens to a “rights-based” NGO’s identity, values and strategies when it does not have a stable, responsible state to appeal to, and it instead has to focus only on the other key limb of a rights-based approach: “empowering” communities to claim their own rights? I argue that one consequence of this is that small rights-based NGOs like Suraj and Community Centred Action end up with a rights-based approach that ultimately consists of encouraging a “responsibility mind-set” in children, parents, and communities. Thus, the state indirectly encourages NGOs to perform a particular kind of morality,

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<sup>871</sup> Kaul, “Rise of the Political Right in India: Hindutva-Development Mix, Modi Myth, and Dualities;” Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India.”

<sup>872</sup> Nieuwenhuys, “By the Sweat of their Brow? ‘Street Children’, NGOs and Children’s Rights in Addis Ababa,” 541.

namely one in which people themselves take responsibility for their own and their community's rights fulfilment.

Both Suraj and Community Centred Action used the method of creating groups – self-help groups, Village Committees, Child Rights Clubs, youth groups – and training them in how to take responsibility for child rights in their own hands. This is a strategy well-known and documented in the case of many South Asian NGOs.<sup>873</sup> The assumption behind such a strategy is that NGOs in themselves are not permanent and sustainable enough to keep playing the watchdog role, but that “resilient communities,” as Thomas put it, are.<sup>874</sup> Therefore, a sense of responsibility for children's rights had to be cultivated in communities.

During my fieldwork with Suraj, Jagadish wanted to help the town's many waste picking children, that is, children who instead of going to school spent their days collecting scrap metal on the street which they could sell to scrap dealers. To address this problem, Jagadish suggested that the NGO should engage a group of women scrap collectors. If we – that is, the NGO that I also voluntarily worked for at the time – could convince them that sending their children to school was right, we would have a vigilant mini-community of women within the larger scrap collector community who could play the watchdog role. The way of engaging them, Jagadish argued, was to create a self-help microloan group. The group would help the women become more economically independent and they would therefore not have to make their children work. Combined with training them to teach others about the

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<sup>873</sup> Most famous is perhaps Muhamad Yunus' women's microloan groups in Bangladesh (Muhammad Yunus and Alan Jolis, *Banker to the Poor: Micro-Lending and the Battle against World Poverty* (New York: PublicAffairs, 2003)). Examples from literature on India include Allen, *An ethnography of NGO practice in India: Utopias of development*, 38; 108-09; Corbridge et al., *Seeing the State: Governance and Governmentality in India*, 160; Gupta, “From Demanding to Delivering Development: Challenges of NGO-Led Development in Rural Rajasthan, India,” 138; Kamat, “The privatization of public interest: theorizing NGO discourse in a neoliberal era,” 172; Rai and Madhok, “Agency, Injury, and Transgressive Politics in Neoliberal Times,” 651.

<sup>874</sup> Field notes, 16 March 2019.

importance of education, the project would have created an “aware” and “responsible” community.

In Community Centered Action, they had strikingly similar ideas of collecting groups of women to address children’s problems. Over two project periods of a total of eight years, Community Centered Action organised villagers at an increasingly higher level as described above, in Child Rights Clubs, Village Committees, Village Associations, and an Umbrella Organisation. The idea here was again that all these more or less formalised and trained groups would be able to take responsibility in their own hands once Community Centred Action did not have more project money. In the future, it would be the Umbrella Organisation, and not an NGO, that held the local state apparatus accountable. However, since Community Centred Action itself started as a movement, and now had trained the Umbrella Organisation in becoming a registered Society, the distinction between “organisation” and “community” was, however, blurred.

These are both examples of how NGOs create groups of citizens who are expected to demand rights. As put by a former CHILDLINE employee who was engaged in a similar “community ownership” project for another NGO: “this is your village, so it is your responsibility that the children go to school.”<sup>875</sup> In sum, distributing responsibility was a technique for NGOs to engage rights holders instead of the state.

Making citizens responsible in this way is not unique to CHILDLINE and its partner NGOs. In fact, it is part of a much larger trend in the development sector. As we saw, it was expressed in a UNICEF handbook, but also in India’s National Plan of Action for Children, where a stated goal is to “[b]uild a sense of responsibility among children so that they are aware of their own duties and learn to act in a responsible manner.”<sup>876</sup> Similarly, a government handbook on child marriage stated that it is “the responsibility of the

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<sup>875</sup> Field notes, 17 February 2019.

<sup>876</sup> Government of India, National Plan of Action for Children, 48.

community to make use of the law.”<sup>877</sup> It is a trend also noted by several scholars. Nitasha Kaul has argued that it is paradigmatic of Modi’s development strategy, as he seeks “to moralize development as a duty, but then also delegate the responsibility for that duty onto the people themselves.”<sup>878</sup> Sangeeta Kamat has similarly argued that the transition from state-led to a market-oriented development paradigm leads to citizens having “to forego their sense of entitlement” for “an entrepreneurial citizen identity.”<sup>879</sup> Ferguson and Gupta call it a “responsibilization of subjects.”<sup>880</sup> Didier Reynaert et al. argue that this framing has become a larger part of the rights-based approach, as it moves towards instilling more and more responsibility in the individual.<sup>881</sup> As they write, there has been “a shift from the responsibility of the government to support children in their development of autonomy (cf. provision rights) towards children and parents themselves expecting to take responsibility.”<sup>882</sup> In Mosse and Nagappan’s interpretation, the rhetoric of “user associations, or or microfinance Self-Help Groups as the substitute ‘technology’ of people’s mobilization” is a consequence of the “neoliberal institutionalist policy trends in the early 1990s.”<sup>883</sup> Finally, Sharma has argued that the neoliberal package of small government and grassroots empowerment may seem contradictory, but perhaps it is not as oxymoronic as it seems because

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<sup>877</sup> Government of India and HAQ Centre for Child Rights, *Handbook on the Prohibition of Child Marriage Act, 2006* (n.d.), 10, <https://www.childlineindia.org/pdf/Child-Marriage-handbook.pdf> (accessed 11 October 2023).

<sup>878</sup> Kaul, “Rise of the Political Right in India: Hindutva-Development Mix, Modi Myth, and Dualities,” 538.

<sup>879</sup> Kamat, “The privatization of public interest: theorizing NGO discourse in a neoliberal era.”

<sup>880</sup> Ferguson and Gupta, “Spatializing States: Toward an Ethnography of Neoliberal Governmentality,” 989.

<sup>881</sup> Didier Reynaert, Maria Bouverne-De Bie, and Stijn Vandeveld, “Between ‘believers’ and ‘opponents’: Critical discussions on children’s rights,” *International Journal of Children’s Rights* 20 (2012): 159.

<sup>882</sup> *Ibid.*, 160.

<sup>883</sup> Mosse and Nagappan, “NGOs as Social Movements: Policy Narratives, Networks and the Performance of Dalit Rights in South India,” 138.

...empowerment programs facilitate neoliberal goals of small and good government in their allowing Third World developmentalist states to downsize by farming out their welfare responsibilities to other entities and by capacitating individuals and communities to be responsible for their own development.<sup>884</sup>

In the same way, a rights-based approach in which NGOs focus on empowerment is not necessarily incongruent with the neoliberal policy turn. It is simultaneously a consequence of neoliberalism, and also a typical “doing good” strategy of NGOs.

The above illustrates a way in which the state as a funder and regulator facilitates small NGOs’ mission drifts. The same state that the NGOs saw as an ally that they “partnered” with in implementing CHILDLINE was also restricting their ability to work freely and shifting their credos and missions away from what they wanted. The fact that the state outsources social programmes to NGOs thus affects the meaning of a “rights-based approach” which both NGOs identified with. When NGOs themselves are the implementers, a key aspect of the hegemonic version of a rights-based approach, namely to encourage responsibility in the state as the duty bearer, is significantly altered.

## 6.7. Vernacular conceptions of rights and responsibility in small, Indian NGOs

Thus far, we have established that NGOs create an organisational identity in order to be legitimate actors in society; and that this identity is constructed – and pulled in different directions – through the confluence between the organisation’s founder, particular histories of voluntarism and activism, donors, and the state. I have examined how two NGOs took on moral duties for children’s rights and made it part of their legitimacy and identity. In my case studies, an important part of this identity was to represent certain

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<sup>884</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 64.



virtuous values and, by extension, a virtuous sector that would ensure that rights were fulfilled and did not remain “on paper.” Finally, the NGOs were implementers of state schemes and therefore restricted both by the state and donors in how they worked with rights. All this complexity meant that the identity construction within an NGO contributed to a contradictory expectation of NGOs’ roles in society as being simultaneously part of and not part of the state. In this last section, I expand on this argument and sum up the chapter.

Both NGOs considered it their own responsibility to take a mediating role between rights holders and legal duty bearers. Their conception of the human rights duty bearer was hence far from state-centred. Community Centred Action acted as a “teacher” of rights and Suraj acted as a “deliverer” of rights. While these roles are significantly different, and relate back the struggle-to-service spectrum, they both imply a hierarchical relation between NGOs and rights holders. The two NGOs considered themselves to be technically outside the core of a rights claim (consisting of the rights holder, the duty bearer and the right), but still indispensable for its fulfilment. In other words, NGOs saw themselves as the best placed mediator between citizens, with rights, and the state, with legal duties. Depending on their position on the struggle-to-service spectrum, this results in different types of rights-based work. Whereas Suraj’s rights-based work was a framing that could easily be converted to other discourses of help, Community Centred Action’s rights-based strategies were more embedded in ideas about citizen’s rights and the state’s duties. Still, the fact that they both had to be amenable to donors and operate within the state’s regulation, meant that they got pulled in the same direction, namely towards a rights-based approach that focused on a “responsibilisation” of individuals and communities. In other words, the value sets and identities of these two NGOs do not exist in a vacuum, but interact with the condition that they are implementers of the state’s rights schemes.

The existence of this type of rights claim is evidence of an ambivalence in the NGO sector. On the one hand, NGOs strive for their own redundancy by working “rights-based” and advocating for a stronger state. This coheres with the hegemonic human rights language as well as into larger international trends in the global NGO-sector. In the latter, funders appreciate projects

that are sustainable by not enhancing dependency on the NGO and that do not work in parallel with state services, but in partnership with them. On the other hand, working in partnership with the state institutionalises and professionalises NGOs who become stable parts of a state's structure for rights implementation. All NGO employees that I talked to during my field studies – whether *taluk* level field officers or managers at CHILDLINE India Foundation – argued *both* that NGOs were “better” because they were closer to the people and motivated by morals *and* that the state was exploiting them through its outsourcing of policies or by not giving them proper salaries and job security.

In sum, I have argued that an NGO's contextually developed values, which emanate from its origin story, local histories of activism and voluntarism, donors, and the state, all play into legitimising NGOs as actors in a rights-based society. In a context like India, with economic liberalisation, outsourcing social services and selective state retreat, NGOs cannot always, in a “rights-based” manner, appeal to the state as the ideal, effective and legal duty bearer it is envisioned to be according to human rights law and international donor agencies. They instead have to take responsibility for children's rights themselves or by activating “communities.” The next chapter will consider these conclusions in conjunction with those of previous chapters, in order to draw out important findings from the study as a whole and to discuss these on a theoretical level.



## 7. Conclusions: everyday practices and conceptualisations of duty bearing of rights

If we want to understand the different meanings that people ascribe to the notion of human rights, we also need to study how they conceive of those rights' potential duty bearers, and whether and how duty bearing is practiced. This study has been an ethnographic and explorative conceptual analysis of how people who work with rights in an NGO-state partnership practice and conceptualise the relationship between human rights – specifically children's rights – and their duty bearers.

I have argued that duty bearing of human rights is conceptualised on a spectrum from hegemonic to vernacular rights languages. In what I have called the hegemonic human rights language, states are conceptualised as the main duty bearers of rights. In its everyday usages, however, I found a co-existence of different ideas of whom duty bearers of rights should be – ranging from the state, to partnerships, civil society, voluntary social workers, and individuals. The NGOs that I studied worked with a rights-based approach where appealing to the state as the key duty bearer was far from the only useful strategy. What I will argue in this final chapter is that the everyday use of “rights” and “duties” should be taken seriously when we theorise about these as concepts. I will stress from the outset that I do not seek to alter the *legal* definition of duty bearing, which – if it becomes necessary – will be a task for lawyers. My commentary is rather on duty bearing of rights as a concept, in philosophy and scholarship generally. In order to make my argument, I will in this section first present my main findings about how the everyday conceptualisation of duty bearing in an NGO-state partnership represents a

co-existence of ideas and practices concurrently related to rights, neoliberalism, and social service (7.1.). In this section, I will also discuss the findings in relation to the literature that I attended to in the Introduction. Second, I will argue that we should allow these empirical realities to inform our philosophical conceptualisations (7.2). This chapter should therefore both be seen as a summative discussion of my findings and as a reflection on the theoretical implications of my study. Finally, in 7.3., I carve out my contributions to the field of interdisciplinary human rights studies.

### 7.1. Conceptual production on the ground: a co-existence of ideas and practices

The first and overall finding that I wish to highlight is that the meanings of human rights and their duty bearers are produced through multiple practices. I have conceptualised these different meanings on a spectrum from the hegemonic language of international law to vernacular expressions of rights-claiming movements. This finding builds upon Madhok's framework of vernacular rights cultures,<sup>885</sup> but adds the insight that because neither the hegemonic nor vernacular human rights languages are "pure" (which Madhok points out), it is particularly interesting and important to study how they intermingle in semi-governmental practices like an NGO-state partnership. In other words, there is a seeming conceptual "mess" in the space between the international legal language and subaltern rights languages – represented, in my case, by NGO-state partnerships. Other such "in-between" practices could, for instance, be socially oriented businesses, academic institutions, local governments, or any other practice where varying actors "partner" for the goal of ensuring that people enjoy their human rights. This confluence of various actors is not specific to India. The particular conceptual influences and political conditions that I discuss are of course regional or national, but the NGO-state partnership for rights implementation is, as we saw in the

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<sup>885</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*.

Introduction, a global phenomenon, and I therefore hope that my findings will have wider applicability.

So, what happened in this particular meeting of ideas and practices? First, the articulation of duty bearing for rights that I found in this practice, was affected and conditioned by a neoliberal and autocratising political environment. But at the same time, NGOs were resisting and adapting to this very environment (7.1.1.). Second, my ethnography revealed a perception of state and NGOs as both opposites and entangled, reflecting the contradictory expectations of human rights NGOs as both ideal and non-ideal, as both part of and outside the state (7.1.2.). Third, the partnership practice that I studied was one in which NGOs constantly engaged in “gap identification” to ameliorate the state’s lacking implementation of rights and to turn *de jure* rights into *de facto* rights. This last finding is evidence that rights are never finally “implemented,” and that NGOs play key, continuous roles in human rights practice (7.1.3.). Below, I elaborate these findings and argue that they should be taken seriously in a potential revised conceptualisation of duty bearing of rights, taking into account that the practical use of a concept should be part of its conceptualisation.

#### 7.1.1. The co-existence of human rights and neoliberalism

Human rights and neoliberalism coexist, and NGO-state partnerships for rights implementation is one key practice in which this happens. Neither human rights nor neoliberalism exist in any “pure” conceptual form, but actors such as NGO personnel pragmatically negotiate between different ideas and between political conditionings and their own moral convictions. I have contributed to this debate by studying *how* they co-exist.

I have done so by exploring what happens in the everyday meetings of ideas. Ideas of neoliberalism and a small state, ideas of human rights, child rights and a service delivering state, and ideas of voluntarism and *sevā* all overlapped in the NGO-state partnership CHILDLINE. Neoliberal policies that outsource rights implementation without providing proper job security for NGO employees exploit the perception of civil society as doing good, as demonstrated in Chapters 4 and 5. At the same time, people working for

NGOs critiqued neoliberalism while living under it, adapting to and negotiating within it, and they affected the system from within with rights-based and *sewā*-based thinking. Importantly, no idea or practice was totalising. Some parts of CHILDLINE directly countered neoliberalism, as we saw with Community Centred Action in Chapter 6. Others, as Suraj, were largely influenced by a legacy of *sewā* or social service. To the latter, neoliberalism was a condition to exist under and “rights”-work was a new way of framing issues it had always worked with. Other aspects of CHILDLINE, such as the corporatised language that I analysed in Chapter 5 (e.g. around the terms “brand identity” and “partnership”), and the legal set-up of the organisation with sub- upon sub-contractors, clearly have neoliberal marks attached to them. CHILDLINE’s prevalent idea of “everyone’s responsibility for rights” both plays into a community-oriented credo and an individualistic one, since it ultimately puts responsibility upon the citizen itself. But while this overlap of contradictory ideas may seem messy, we can also understand it simply as amounting to what Haslanger has called the “social matrix” or the empirical conditions under which a concept – in my case, human rights duty bearing – “does its work.”<sup>886</sup> Two characteristics of the conceptual co-existence of human rights and neoliberalism are particularly significant and deserve elaboration: the “push-and-pull” of rights-based resistance and neoliberal policies; and how, in practice, well-meaning ideas about human rights implementation can be complicit in expanding a neoliberal political regime.

#### *7.1.1.1. The push-and-pull of rights-based resistance and neoliberal policies*

As Madhok has shown, neoliberal policy environments have led to increased rights mobilisations. She characterises a “‘push and pull’ of rights in the long running discourse on developmentalism in postcolonial India, which took a decisive ‘rights-based’ turn coinciding just at the point of the liberalisation of the Indian economy in the early 1990s.”<sup>887</sup> Similarly, I have also previously referred to Nilsen’s argument about the increase of rights-based legislation as

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<sup>886</sup> Haslanger, “What Are We Talking About? The Semantics and Politics of Social Kinds.”

<sup>887</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, 24; 68; 125-26.

a vehicle to win public support for the neoliberalisation of the economy, with the side-effect of “significant concessions to the claims and demands of subaltern movements.”<sup>888</sup> In this study, CHILDLINE India Foundation has been analysed as epitomising the “push-and-pull” of rights-based resistance and neoliberalism which seems to swing like a pendulum in India.

First, let us look at the neoliberal “pull.” If the way that ideas and practices co-existed seemed messy, my study has shown that ideas in fact do not hold the same epistemic power. When it comes to the idea of the state as the duty bearer, it is an idea defined by the realm of international law and European philosophy. However, as shown in Chapter 3, the Treaty Bodies have to deal with realities of NGO-state partnerships and therefore employ a conceptualisation of duty bearer which is close to CHILDLINE’s operationalised and practical conception of it. When it comes to neoliberalism, the ideas propagated by the Indian state are those that hold more epistemic power than the ideas propagated by small NGOs. As discussed in Chapter 4, the Indian state can be characterised as “cunning” when it is “selectively strong in advancing the interests of the privileged, but strategically weak in fulfilling even its constitutional duties towards the poor.”<sup>889</sup> Outsourcing rights implementation to NGOs fits well with Randeria’s characterisation of the Indian state as “cunning,” and as Chapter 6 demonstrated, the Indian state and international donors were two actors that, through their power over small NGOs, were able to homogenise certain practices. Neoliberal conceptions of rights – that implementation of rights should be outsourced to private actors and that citizens themselves should be morally responsible for fulfilling their rights and the rights of others – were clearly evident in the ideas that were promoted by the state. An important finding of this study has been to show how NGOs’ “original” objectives and missions are conditioned legally and ideologically by state policies and donors. This was evident from, for instance, how the Foreign Contribution Regulation Act impacted small NGOs, as we saw in Chapter 6, and how child

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<sup>888</sup> Nilsen, “India’s Turn to Rights-Based Legislation (2004-2014): A Critical Review of the Literature,” 662.

<sup>889</sup> Randeria, “The State of Globalization: Legal Plurality, Overlapping Sovereignities and Ambiguous Alliances between Civil Society and the Cunning State in India,” 8.



rights idealists incorporate marketised language and practices into their work, which the examination of CHILDLINE India Foundation in Chapter 5 was an example of. I have accordingly argued that one consequence of this was that small rights-based NGOs, like Suraj and Community Centred Action, saw encouraging a “responsibility mind-set” in children, parents, and communities, thus appealing to a civic duty rather than a state duty, as their most effective strategy.

Another consequence of the Indian legislation that pertains to how NGOs function relates specifically to children’s rights. In Chapter 4, I presented the existing legal framework for child protection in India, where children are deemed a vulnerable category that requires special protection. When NGOs, like CHILDLINE India Foundation, consider child rights to be a “soft issue” and “not like a land rights issue, or (...) [a] human rights issue,”<sup>890</sup> it is evidence that working with *children’s* rights specifically is a safe way to work with rights in a political environment that is restrictive towards “political” NGOs. This tendency was also evident in how, as Chapter 5 demonstrated, Community Centred Action shifted their focus from Dalit rights to children’s rights. We might here also recall the Indian government’s “think thank” NITI Aayog’s list of issues it cooperates with NGOs on, where “rights” were only mentioned in combination with children. This relates to the concept of *sevā* discussed in Chapter 6: due to the fear of taking on “human rights” (*not* child rights) issues, many NGOs employ service and rights as interchangeable concepts and hence reinforced the notion that the duty bearer consonant with *sevā*-based thought is the voluntary social worker.

Thus, by encouraging “soft” rights issues, the state indirectly conditions NGOs to perform a particular kind of morality, namely one in which people themselves as well as voluntary social workers take responsibility for their own and their community’s rights fulfilment. This is part of discursively constructing NGOs as virtuous yet, to the state, non-threatening actors. With increasing restrictions on civil society organisations under the present government, combined with a rhetoric of people being responsible for their own development, being service providers or implementers was the only role

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<sup>890</sup> Interview no. 24.

that NGOs did not have to fight to keep. In Chapters 4, 5 and 6, I have shown that this leads to a discursive construction of rights-based NGOs in India as ideally non-political service implementers, and that rights claiming become a non-political “service.” The political reality where the state is an entity with specific characteristics (such as “cunning,” janus-faced, an ally to partner with for NGOs, bureaucratic, autocratising, or neoliberal), and not an abstract entity, results in a particular vernacular meaning of working “rights-based.” Such a meaning stands in contrast to the hegemonic conception of working “rights-based,” which is the idea that NGOs should appeal to the duty bearer (the state) and empower rights holders (citizens). This affirms and substantiates the view that concepts – like “the state” and “duty bearing” – exist in a social matrix defined by both history and practice, and that this should be taken seriously when we analyse them.

Now, let us turn to the human rights “push” that counters the neoliberal “pull.” Even though some ideas have more epistemic power than others, it does not mean that there is no resistance. For instance, CHILDLINE itself described the very inception of the organisation as a result of the new precarious situation for children who had lost their social security nets after India’s economic liberalization.<sup>891</sup> CHILDLINE was a way to give children their rights when the state did not. Chapter 5 showed that the clearly rights-based value of “child participation” shone through in CHILDLINE’s work and credo. It identified strongly as a rights-based organisation and was part of lobbying for the adoption of important rights-based government schemes (the Integrated Child Protection Scheme) and laws (like the Protection of Children from Sexual Offences Act) for children. Thus, while operating in a neoliberal policy environment, CHILDLINE pushed where it could for rights-based changes. Not only the large organisation CHILDLINE, also the small NGO Community Centred Action analysed in Chapter 6 was involved in pushing rights through a more local agenda. While it felt compelled to move away from its more radical anti-caste roots, it maintained a focus on empowerment of its own employees and of the mothers in the villages that

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<sup>891</sup> I am not claiming that children had functioning social security nets in India prior to liberalisation. I am here referring to CHILDLINE’s argumentation as articulated in their promotional documents (see details in Chapter 5).

they worked in. “Empowerment” as a strategy was, however, both compatible with a “rights-based approach” and with a neoliberal outsourcing of responsibility. NGOs did not only show agency through active resistance, they also maneuvered within the limits of a “partnership”: the partnership language gave them legitimacy vis-à-vis constituencies as being “allies” of the state and they could use that in their work against, for example, child marriage and child labour. In sum, with these findings about a constant push and pull, I have contributed to the literature on how more radical NGO identities are adapted to a neoliberal state environment.

*7.1.1.2. “Partnerships” make human rights practices complicit in neoliberalism*

In the Introduction, I discussed the tension between the promises and risks of NGO-state partnerships. While the term “partnership” implies equality, a state-NGO partnership is, in practice, full of power inequalities. In theory, the idea of “inclusive partnerships” between state and “community” should be able to address the infeasibility of state centrality in human rights law.<sup>892</sup> On the other hand, privatisation seemingly makes it impossible for “states to comply with their human rights obligations.”<sup>893</sup> Engaging child protection NGOs to be service providers for the state is thus, just as Sharma wrote about “empowerment,” a double-edged sword that is simultaneously promising and precarious.<sup>894</sup> This can in fact be extended to the entire notion of a “human rights NGO,” as I discussed on the first pages of this study: “human rights NGO” carries with it the curious contradictory expectations of being both ideal and non-ideal. Here, I will place the findings from the study of CHILDLINE in relation to these arguments.

On the “promising” side of state-NGO partnerships for child rights, access to rights might be easier for children and families when NGOs are providers, because it lowers the threshold for people to approach the duty bearer. In practice, the state is not inherently secure, as the autocratising turn in the Indian

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<sup>892</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*, 160; 278.

<sup>893</sup> Nowak, cited in *ibid.*, 147.

<sup>894</sup> Sharma, “Crossbreeding institutions, breeding struggle: Women’s empowerment, neoliberal governmentality, and state (re)formation in India,” 82.

government discussed in Chapter 4 reminds us. Children's rights in India are arguably more secure with a network of watchdogs and service providers that try to supplement a reluctant state, than without it. As I return to below, NGOs often turn rights from being "on paper" into being *de facto* enjoyed. Furthermore, all my interviewees regarded the NGOs that they worked for as being faster, more flexible, less bureaucratic and having more field experience than the civil servants working within the state's child protection agencies. In this view, NGOs are ideal because they are important upholders of rights without whom many rights would effectively not be enjoyed.

On the "precarious" side, there are clear risks with a model in which NGOs become rights providers. First, it assumes a nation-wide coverage of NGOs, which, at least in India, is simply not the case. The model excludes people living in areas where there are no NGOs, which often coincide with geographically or socially marginalised spaces. It furthermore encourages the establishment of new NGOs in these areas, thereby risking a further retreat of the state which, as a consequence, does not need to be present in peripheral areas. Second, while NGO-state partnerships, such as CHILDLINE, are primarily financed by the state, the model could not function without funding from elsewhere. The NGOs that run the programme will naturally seek to diversify their funding, and – in my specific study – the CHILDLINE programme thus becomes dependent on these other funding sources. Third, the NGO-state rights partnership consolidates a semi-governmental apparatus that relies on the voluntary sector, activists and volunteers. This leads to a precarious work situation for the semi-governmental workers who implement children's rights, but ironically lack job and financial security themselves. The CHILDLINE employees I talked to complained that their salary was low and always late, and they did not receive the job security or prestige that came with a government job. Fourth, it is difficult for NGOs to maintain critical advocacy activities if they are dependent on government funding – their role as active civil society actors that seek to ensure a human rights regime is thus undermined. All these critiques of course apply to neoliberal governance in general, but they also show that the human rights practice of "partnerships" between civil society actors and the state reflect the same problems. In this view, NGOs are non-ideal actors because they contribute to the upholding of a precarious and unstable rights regime.

With these reflections, my study confirms the worries of previous ethnographies from India, such as Sharma's,<sup>895</sup> Rai and Madhok's<sup>896</sup> and Mangla's,<sup>897</sup> namely that a precariat of semi-governmental workers who represent the state, but lack the job security, pension and prestige of a government job, has been created. As the discussion of NGO-state partnerships in human rights literature in the Introduction also pointed out, the partnership practice comes with an inherent and not easily solvable tension, namely one between calls for state building and an expansion of rights-based regimes, on the one hand, and neoliberal state retrenchment, on the other.<sup>898</sup> NGO-state partnerships' relation to neoliberalism is complex, since they, most often, are both a symptom of a state's privatisation policies and comprised of politically conscious people who advocate for a stronger state. My study has demonstrated the everyday intricacies of this tension by examining how the neoliberal practice of public-private partnerships affects and becomes entangled with discourses and practices around human rights. While my findings were focused on India, the intermingling discourses and practices related to both human rights and neoliberalism are worthy of study in NGO-state partnerships beyond India.

#### 7.1.2. Perceptions and expectations of state and NGO responsibility in "hybrid" set-ups

One of the largest differences between the hegemonic human rights language and everyday conceptions of duty bearing is the expectation placed on and imagination of the state. In the hegemonic version of human rights that we meet in the Covenants, the expectation on the state is that it is capable and willing to fulfil, respect and protect rights. In my analysis, the state has emerged as abstract (Chapter 3), as neoliberal, autocratising, and rights-based

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<sup>895</sup> Ibid.

<sup>896</sup> Rai and Madhok, "Agency, Injury, and Transgressive Politics in Neoliberal Times."

<sup>897</sup> Mangla, *Making Bureaucracy Work: Norms, Education and Public Service Delivery in Rural India*, chapter 7.

<sup>898</sup> Beer, Bartley, and Roberts, "Ngos: Between Advocacy, Service Provision, and Regulation," 328.

(Chapter 4), as having a hybrid relationship with and as an ally of NGOs (Chapter 5), and as a restrictive regulator and limiting donor of small NGOs (Chapter 6). In other words, in practice, the state emerged fragmented. To people working for CHILDLINE, the state was not deemed to be particularly reliable, and ideas of voluntarism and activism were therefore much more central when they talked about child rights. The co-existence of different ideas was thus not only present when it came to neoliberalism and rights, but also to the ideal imaginations and expectations of the public and the voluntary sector respectively. In the rights implementation that I have examined, the two sectors constantly overlapped – both on a formal level, through legal partnerships, and in the way that NGOs informally worked. Semi-governmental workers recognised this overlap, but they also held distinct imaginations of the virtues and vices of the public and voluntary sector. In the hegemonic human rights language of theory and law, on the other hand, there is a separation of “state” and “civil society” as playing distinct roles without any value judgment of one or the other: the state is the duty bearer and civil society actors are vaguely defined watchdogs or helpers in implementation.

So why is there this conceptual leap between the state, bureaucracy, and authorities on the one hand, and the voluntary sector and civil society on the other – when they, in practice, are entangled and this entanglement is encouraged in the form of NGO-state partnerships? There are several answers to this question based on the findings of this study. First, the conceptual leap is evidence of the difference between “manifest” and “everyday” or “operative” concepts, when it comes to the state and civil society.<sup>899</sup> The definitions of “state” and “civil society” that we find in law and theory are different from our operational conceptualisation, just as the definitions given by semi-governmental workers were different from their practice. Second, when international law and theory own a hegemonic space of production of what human rights mean, then rather strict conceptions of what “the state” is and

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<sup>899</sup> Haslanger, “What Are We Talking About? The Semantics and Politics of Social Kinds.”

what “non-state” signifies become dominant.<sup>900</sup> Third, my analysis has shown that states, such as India, have an interest in maintaining the imagery of a voluntary sector that it can legitimately engage in low-cost outsourcing. Finally, NGOs themselves also need certain values and identities to hold on to in order to be legitimate to society and to the state, and are thus part of producing an imagined separation of state and civil society as ideas. In Chapter 5, I looked at whether the ideal types “state” and “NGO” are useful when we wish to conceptualise who is responsible for human rights fulfilment and found that, for the semi-governmental workers, the ideal types were crucial for legitimising their own roles as part of hybrid organisations. I also showed how semi-governmental workers themselves ascribe highly different values to the “public” and “voluntary” sectors. In Chapters 5 and 6, I discussed how NGOs assume the curious dual role of gaining moral legitimacy from *not* being the state and, at the same time, of being able to work only as *part* of the state. This affirms Ferguson and Gupta’s notion of the state as simultaneously “above” and “encompassing” civil society.<sup>901</sup> In line with this, and similar to Brandsen et al.,<sup>902</sup> I argue that hybridity should be considered a key feature of NGOs that are “partners” of the state. I have provided evidence for the many overlaps between the public and the voluntary sectors, and between different conceptual influences on the practice of human rights responsibility. CHILDLINE is undoubtedly an example of such a “hybrid” state-NGO organisations.

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<sup>900</sup> As discussed in Chapter 3, from an academic point of view, these perceptions of international law as state-centered are being challenged by several new studies within the international legal field, such as Nico Krisch, ed., *Entangled Legalities beyond the State* (Cambridge: Cambridge University Press, 2021). However, they are still dominating in international legal discourse.

<sup>901</sup> Ferguson and Gupta, “Spatializing States: Toward an Ethnography of Neoliberal Governmentality,” 981.

<sup>902</sup> Brandsen, Donk, and Putters, “Griffins or chameleons? Hybridity as a permanent and inevitable characteristic of the third sector.”

### 7.1.3. From *de jure* to *de facto* rights enjoyment: NGOs as “gap fillers” in human rights implementation

This study, moreover, contributes to the literature about NGO roles, and specifically how NGOs play the role of being an intermediary between citizens and the state by filling an “implementation gap.” To this scholarship, I have added the characterisation of NGOs as “gap fillers” between *de jure* and *de facto* rights, capturing the fact that human rights are never fully implemented by state policies and schemes. On the contrary, the implementation constantly needs to be checked – and NGOs are both mandated to and actively take on the role of implementation gap fillers. I argue that we should consider this gap-filling exercise as a definitional part of human rights practice. When NGOs are consolidated gap fillers, they are sustaining a state’s human rights duty bearing regime. This finding, by linking the fields of NGO studies with human rights studies, is an important contribution to the research field that explores new duty bearers beyond the state.<sup>903</sup> By recognising more specific functions of NGOs in human rights practice, we also move away from the overly broad term “non-state actor” that I critiqued in Chapter 3. Below, I further elaborate my argument about NGOs as crucial implementation gap fillers.

Throughout the study, I have argued that the idea of the state as the only duty bearer of rights is something we find primarily “on paper” and not in practice. As I discussed in Chapter 4, the duty bearer’s job is to implement rights – transforming them from ideas to practice – but implementation itself is often only done “on paper” through the writing of policies and adoption of laws that do not have effect in practice. For the NGOs that I have studied, this was an acute problem, because they work with ensuring rights. In my empirical material, I noticed how NGO workers continued to argue that India had sound laws, but not a proper implementation of these. My informants argued that rights do not really exist without implementation and that there was a significant gap between “paper” and practice. This gap is similar to the gap I have identified between the hegemonic conception of human rights duties – in which the state is posited as the duty bearer – and everyday conceptions

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<sup>903</sup> Such as Fraser, *Social Institutions and International Human Rights Law Implementation*.; Salomon, Tostensen, and Vandenhoe, *Casting the Net Wider: Human Rights, Development and New Duty-Bearers*.



that reflect a plurality of actors who all take responsibility here and there to make sure that children get their rights fulfilled. Because the state, in India and generally, is never the ideal actor that it is imagined to be in law and in theory, there will always be implementation gaps. These are not simply an unfortunate parenthesis before ideal human rights are realised, but a continuing condition of an actual human rights world that theoretically insists on the state's centrality but falls short in practice. Implementation of rights is not a one-time job, but a process in which NGOs are central actors. There is, in other words, a continuous job for NGOs in filling "gaps," in securing "empowerment from below and accountability from above,"<sup>904</sup> as we have seen large and small NGOs do in this study.

I argue that one of the reasons for the persistent existence and expansion of NGOs in human rights practice is the constant need to address this "implementation gap" or, as Jayal has named it, the gap between *de jure* and *de facto* rights.<sup>905</sup> We have also seen similar points being made by other scholars, such as Mathur who argues that the law itself sometimes is "unimplementable,"<sup>906</sup> and Fraser who maintains that the law alone simply cannot fulfil human rights duties.<sup>907</sup> Jayal has argued that there, in addition, is a state of rightlessness at play in the gap between *de jure* and *de facto* rights. I use this as my point of departure when I argue that the "simple" version of a rights claim (which consists of a rights holder, a duty bearer and an object or good) is not enough to conceptualise how claim making and rights enjoyment take place, because there is always, as I have made clear, a "gap." "Gap identification" was indeed a common term among CHILDLINE's sub-contracted NGOs. It referred to the practice of analysing the schemes and specific local state agencies that only worked "on paper." It was even directly mentioned in the partnership agreement between CHILDLINE India Foundation and its sub-contractors that one of the latter's mandates was to "identify gaps in services."

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<sup>904</sup> Fisher, *Nongovernments: NGOs and the Political Development of the Third World*, 172.

<sup>905</sup> Jayal, "The Right to Have Rights. Taking Hannah Arendt to India."

<sup>906</sup> Mathur, *Paper Tiger: Law, Bureaucracy and the Developmental State in Himalayan India*.

<sup>907</sup> Fraser, *Social Institutions and International Human Rights Law Implementation*.

For a right to actually be claimed or “activated,”<sup>908</sup> the rights holder needs to know that the right exists and how to claim it, and the duty bearer needs to be willing and able to fulfill its duty. NGOs, trained as they are in “gap identification,” have overwhelmingly found their contribution to the rights claim to consist of filling the gaps of “awareness raising” and “capacity building.” In this way, it has become common practice for NGOs to define their own role as technically outside the core claim, but still indispensable for its fulfilment. I therefore suggest that NGOs, in the context of NGO-state partnerships, are an integrated part of the rights claim in two ways. First, they provide “awareness” to rights holders and “capacity building” to duty bearers, which turns the right from being claimable to claimed or to return to Jayal’s terms, it moves people away from the state of rightlessness and into *de facto* rights enjoyment. Second, NGOs are also the providers of many rights once the state has decided to discharge its obligations. *De jure* rights exist when the *de jure* duty bearer (the state, in the form of laws and schemes) exists. These only turn into *de facto* rights when there is a gap filler.

I should underline that it is not new to recognise NGOs as mediators between citizens and the state, nor that there is often a third actor (in addition to states and citizens) who is part of human rights practice. What is new largely due to neoliberalism is the increasing institutionalisation and consolidation of this third role through NGO-state partnerships, and that the NGO’s extended state role is actively promoted by the state. If it is well-known that the NGO sector is considered a “proxy public”<sup>909</sup> for the state, it is simultaneously a “proxy state” for the public – as we saw in the example in Chapter 5 of the child marriage case where Suraj acted as an extended state “against” families. Importantly, what is new is also my argument that this type of “gap filling” is a continuous and stable role for NGOs in human rights practice. It is not something NGOs do as a “band-aid” or temporary solution, but is rather an

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<sup>908</sup> Madhok, “On Vernacular Rights Cultures and the Political Imaginaries of Haq,” 491.

Madhok refers to “activation” of rights in the context of Public Interest Litigation (PIL), which I discussed in Chapter 4. PIL’s are indeed a tool for social movements to “activate” rights for a larger population, while the NGO claims I engage with here most often relate to individual children’s rights.

<sup>909</sup> Lang, *NGOs, Civil Society, and the Public Sphere*, 7.

integral part of the state's service delivery – especially in the case of “partnerships.” It is a non-ideal, but continuous and stable role for NGOs, in an always imperfect human rights regime. As demonstrated in Chapters 5 and 6, while partnerships emphasise an appeal to “everyone's” duty, the glue that hold these partnerships together is the NGO sector. In other words, an NGO, such as CHILDLINE, that implements a government scheme does not restrict itself to being only an implementer (even if the state seeks to condition it to be so), but takes responsibility upon itself to constantly ensure the upholding of a larger rights regime – and thereby becomes an intrinsic part of a state's duty bearing regime. In other words, I have argued that it is impossible to fix the famous “implementation gap” between human rights ideals and human rights practice, because the realisation of rights is a constant exercise between putting pressure on the state, action by the state, and filling gaps in the state's implementation. It is not something that is once and finally implemented.

I now turn to arguing that all of these findings – about the co-existence of ideas of neoliberalism, rights, and service, about the entanglements of the public and voluntary sectors in human rights practice, and the gap filling roles played by NGOs – need to be taken seriously in human rights theory.

## 7.2. Reflections for future studies: towards a revised conceptualisation of duty bearing?

Thus far, we have seen that the way NGO-state partnerships are formed today is partly a consequence of neoliberal privatisation policies, partly shaped by activist rights discourses as well as an existing and contextually conditioned voluntary sector that is, in my case, guided by the concept of *sevā*. In other words, in partnerships, a “service”-centred NGO discourse meets a neoliberal state-centred rights discourse. In this study, concepts such as *sevā*, rights, empowerment, and citizen duties all defined the work of NGO workers who were simultaneously government scheme implementers. CHILDLINE's appeal to the duty of responsible citizens and to partnerships between all “stakeholders” was evidence of an understanding of child rights duties not as

a state-centred concept, but rather as a civic duty: everyone who sees a child in need of help, has a duty to act, so that the child can get her rights fulfilled.

This is a conceptualisation of duties rather far from the one we met in the hegemonic human rights language, where children are not anyone's charity project, but have a *right* to be protected by their *state*. Neither is it a conceptualisation that we can characterise as a "vernacular rights culture" in Madhok's sense,<sup>910</sup> because it is not subaltern and non-elite – rather, it exists in a semi-governmental NGO world. Yet, it adds to our understanding of what human rights mean in states like India which can be characterised concurrently as rights-based (adopting rights-based laws about child protection), neoliberal (outsourcing the implementation of these rights to NGOs),<sup>911</sup> and autocratising (restricting the space for NGOs to exist and operate). Moreover, we need, as Madhok reminds us, to begin investigations of rights cultures, not only in "the global human rights discourse championed by transnational organisations and policy makers," but also in the rights discourses that are mediated through nation states and their policy interests.<sup>912</sup>

So how can these findings be used in human rights theory? Recalling Haslanger's framework for conceptual analysis, the hegemonic version of human rights duties is what we can call the manifest and public conceptualisation of duty bearing. Yet, this study has shown that the everyday use of the duty bearing concept is far from strictly tied to the state. It is here important to underline that there is not necessarily anything wrong with the existence of a legal definition of duty bearing that is tied to the state. My argument is not that NGOs should (or should not) have legal human rights duties, but rather that we should be able to, on a conceptual analytical level,

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<sup>910</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*.

<sup>911</sup> As highlighted in Chapters 1 and 4, I am not saying that NGOs did not play a significant role in human rights work in India or elsewhere prior to the neoliberal turn, nor that there was a pre-neoliberal state of affairs where the state was fully attending to the realisation of rights. However, the neoliberal turn did bring with it new discourses and practices, and new expectations on NGOs to be privatised rights and welfare implementers.

<sup>912</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, 106.

discuss what duties and a responsibility for rights mean beyond the legal sphere – i.e. in their everyday meanings. The legal definition has come to monopolise the terrain of social responsibilities and duties when it comes to human rights. But this study has shown how this monopoly is imposed on pre-existing practices. We should recognise that the legal definition is only one amongst many of what human rights duty bearing means.

The finding that we have different everyday conceptualisations of duty bearing for rights is a result of the explorative conceptual analysis that was inspired by Haslanger. Haslanger, however, does not only introduce this more descriptive, empirical approach to conceptual analysis, she also discusses an “analytical” or “ameliorative” approach which uses the empirical insights from the descriptive approach to discuss what the concept in question does for us. In my case, an analytical or ameliorative approach could ask: given the multitude of influences on how NGO workers conceptualise duty bearing in their everyday work and that these conceptualisations are significantly different from the hegemonic human rights language, is the concept of duty bearing valuable? Do we need to revise it? What can and should the concept of duty bearing of rights do for us? Is there a good reason for having a state-centred definition of duty bearing? These are questions whose answers are beyond the scope of this study, but here at the end, I will offer a few reflexive thoughts for possible future studies.

My study has focused on empirical documentation and critical analysis of duty bearing as a concept and practice. But there are good reasons for using these findings for developing better, normative concepts. For example, the statement “human rights are held by all humans” is not empirically true, but normatively useful. Applied to my case, we could consider the statement “the state is the duty bearer of human rights.” Is it normatively useful? A revised conceptualisation of “duty bearing” would of course need to have a clear idea about what kind of just society we should strive for. The end goal would likely be that all children (or more broadly beyond my case study, humans) get their rights fulfilled. But is the ideal, just society one in which the state should take all or primary responsibility for rights? Is it one in which civil society should do so? Is it one in which there is a practical way of distributing responsibility between the state and civil society? Is it one in which we avoid the dichotomy

of state and civil society altogether and instead find other categories that work better for our purposes? It is my hope that this study has provided some concrete insights in order to be able to answer these and similar questions with the help of empirical evidence.

Beitz' argument for a practical human rights conception, discussed in the Introduction and Chapter 3, defined human rights through empirical observation of actual human rights practice.<sup>913</sup> My analysis has, in a similar vein, argued that when we define the human rights duty bearer, we should be informed by empirically observed practice.<sup>914</sup> This does not mean that a revised normative conceptualisation of "duty bearing" should one-to-one reflect observed practice, but rather that we will be able to formulate better normative theories if they are not disconnected from practice. As argued in Chapter 3, Beitz' approach to political theory could be an "in" to take practice and vernacular conceptualisations of duties more seriously in normative theorising.

For instance, if we take "the state" not as an ideal and abstract entity, but a particular neoliberal, bureaucratic state that is restricting dissenting voices, perhaps we do not want the state to bear primary responsibility for rights. If we know that the parts of civil society that are able to carry out their work (like CHILDLINE) are so entangled with the state that the distinctions are not always visible, perhaps we need better categories than "state" and "civil society" when we theorise the distribution of duties for rights – or, as CHILDLINE's employees themselves demonstrated, perhaps we *do need* the dichotomy of state and civil society in order to argue for the need for hybrid organisations in rights implementation. We could also develop a new and more empirically realistic normative idea of "rights implementation," capturing how states should ultimately be responsive to rights claims (as accountable duty bearers), but NGOs (as gap fillers) should be alert for needs, to ensure that rights are not only claimed, but *de facto* delivered. In sum, the empirical realities of what happens when international human rights law's

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<sup>913</sup> Beitz, *The Idea of Human Rights*, 8.

<sup>914</sup> For similar ideas of the need for a practice-informed human rights theory, see Mark Goodale, *Reinventing Human Rights* (Stanford: Stanford University Press, 2022).

state centredness is imposed on states where NGOs are already key “partners,” should be taken into account theoretically.

In addition to opening up for future normative studies on duty bearing, I also hope that this study will inspire other ethnographic conceptual studies with duty bearing for rights at the centre. There are indeed multiple ways to understand duties for rights beyond the state-centred “covenant version.” If we want to bring out more nuances to the meanings of rights and duties, ethnography and conceptual analysis are ideal tools, because ethnographic insights can prompt us to seriously consider practices that interact with human rights in specific contexts. Using ethnography to inform and improve human rights theory can move us away from considering gaps between theory and reality – or law and reality – as simply unfortunate and towards more empirically grounded understandings of what rights are. Similar ethnographic conceptual analyses of other spaces where rights are claimed, talked about or implemented, from the hegemonic to the vernacular and in particular in all the spaces in between, will bring out different and multi-faceted stories about duty and responsibility for rights. To study *de facto* duty bearers in this way implies emphasising those actors whom we empirically can observe to be providers or protectors of others’ rights rather than those whom we theoretically have stipulated *ought to* be doing this. If our understanding of duties expands beyond the hegemonic version, our understanding of rights will follow.

A final scope for future studies lies in the current drastic changes happening in the Indian child rights sector. In 2022, the Ministry of Women and Child Development issued a new policy, Mission Vatsalya, which subsumes the erstwhile NGO-state partnership CHILDLINE (1098) into the government emergency number (112). At the time of writing, it is still unclear what this will mean in practice for the hundreds of NGOs that currently implement the helpline, but it will doubtlessly be a dramatic restructuring of child protection governance that deserves unpacking.

### 7.3. Contributions to interdisciplinary human rights studies

This study has made three overarching contributions to interdisciplinary human rights studies. First of all, despite the fact that the state is the dominating duty bearer in the hegemonic human rights language, I have shown that NGOs play a crucial role in child rights implementation in India: they fill gaps between law and practice, they advocate for better implementation of rights, and they are themselves implementers of rights. They do all this while they are negotiating their own roles with a fragmented state that they sometimes meet as an ally, sometimes as an antagonist, and sometimes as a reluctant bureaucracy. The interactions and negotiations between these NGOs and the state are a central part of human rights implementation. With these findings, I contribute to the critical scholarship on NGOs as simultaneously neoliberal institutions and comprised of activist people, and to the scholarship that questions the assumptions of the “implementation gap” between human rights law and practice. I have shown how NGOs as “gap fillers” is a consolidated part of human rights practice. The state that NGO workers meet, negotiate with and partner with, materialises in a number of fragmented ways: as neoliberal and absent, as autocratising and restrictive, and as an ally against commonly agreed social evils such as child marriage. Finally, while the Indian state’s characteristics are specific, the role of NGOs as service providers in privatising human rights regimes, is a global tendency. The language we saw being used by the Committee on the Rights of the Child in Chapter 3 – “flexible” partnerships with civil society – is also evidence of this global neoliberalising trend in human rights. I therefore argue that this “gap filling” characteristic of the contemporary NGO sector is valid wherever NGOs are working in the meeting of service provision and rights advocacy in neoliberal states.

The second contribution is a methodological one, which I hope will be useful for other ethnographers of human rights practice. I have shown the value of ethnographic methods for studying the conceptual production of human rights, and how it can illuminate and make accessible all the “messy spaces” between vernacular and hegemonic human rights languages – in other words, the spaces where most rights practice happens. I have argued that methodologically we should study not only “rights,” but also surrounding



ethical discourses in order to be able to capture how human rights production takes place “on the ground.”<sup>915</sup> Specifically, I have argued that the way in which people and institutions conceive of and practice *duties* for rights is significant for how they – and consequently we as scholars – conceptualise rights.

Finally, the study has been a contribution to the scholarship on human rights in the vernacular, by showing how human rights are conceptually produced on a spectrum from hegemonic to vernacular rights languages. This is not in itself a new claim, as we saw with Merry’s concept of “vernacularisation” and Madhok’s work on “vernacular rights cultures.” I have sought to harmonise these two theoretical perspectives which, thus far, have existed in different scholarly “camps”: while Merry’s theories in human rights studies are often cited as necessary anthropological input to otherwise often legalistic studies of human rights, Madhok’s work is an attempt to challenge and decentralise a political theory of human rights which is overly focused on “politics of origins” and lacks ethnographic insights from “most of the world.”<sup>916</sup> Madhok has critiqued Merry for not being sensitive to the epistemic injustices resulting from applying the concept of “vernacularisation” from a “global” to a “local” rights language.<sup>917</sup> This critique is important, but I have shown that the two perspectives can also complement each other.

With Merry’s lens, I have demonstrated how the legal jargon of “duty bearing” has sieved its way from international human rights law through to small NGOs’ practice and discourse (a classic “vernacularisation” process), and thus contributed to “homogenising difference.”<sup>918</sup> With Madhok’s lens, however, I have argued how this homogenising is not the only thing that is

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<sup>915</sup> This is also inspired by the work of Goodale, “Ethical Theory as Social Practice;” Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*; Merry, “Legal Transplants and Cultural Translation: Making Human Rights in the Vernacular.”

<sup>916</sup> Madhok, *Vernacular Rights Cultures: The Politics of Origins, Human Rights and Gendered Struggles for Justice*, Chapter 2.

<sup>917</sup> Madhok, “On Vernacular Rights Cultures and the Political Imaginaries of Haq,” 501-02.

<sup>918</sup> Merry, “Rights, Religion, and Community: Approaches to Violence Against Women in the Context of Globalization.”

going on. The concept of “vernacular rights cultures” has helped me identifying how actors who, to varying degrees (but none of them completely), operate outside the hegemonic human rights world are also key in producing – and not only adapting – human rights language. Specifically in my case, actors in the NGO-state partnership CHILDLINE produced a human rights language that was detached from the state, it was influenced by particular activist histories, by ideas of doing “service,” by neoliberal ideas about “stakeholders” and “community empowerment,” and by a focus on “everyone’s responsibility” for child rights implementation. This is not the same as what Merry analyses as translating “in the opposite direction”<sup>919</sup> (*to the global human rights system*), because, with Madhok’s lens, we are more interested in vernacular rights expressions *for what they are in themselves*, not only for what they “do” to “global” human rights expressions. Finally, it is important to underline that more vernacular rights expressions are not necessarily a “better” version of human rights, but that they are important to document as versions of human rights that are currently being produced – in my case, at the confluence between a neoliberal privatisation of NGOs and NGO workers’ resistance to and agency within this environment. If we acknowledge the hegemonic-vernacular rights spectrum, and thereby the multitude of non-legal expressions of human rights and duty bearing, then we open up for learning about the roles and responsibilities of NGOs in actual human rights practice.

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<sup>919</sup> Merry, “The Potential of Ethnographic Methods for Human Rights Research,” 145-46.



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# Appendix 1: Overview of analysed data

All field notes, interviews notes, interview transcripts, and documents are with the author. Full citations for public documents are to be found in the Bibliography above.

## Ethnographic observations

Organisation/situation	Time period	Location
Suraj (NGO)	01-feb-2019 → 07-mar-2019	Madhya Pradesh
Community Centred Action (NGO)	09-mar-2019 → 23-mar-2019	Tamil Nadu
Suraj (NGO)	25-mar-2019 → 24-apr-2019	Madhya Pradesh
Suraj (NGO)	12-feb-2020 → 16-feb-2020	Madhya Pradesh
Digital contact with informants in Madhya Pradesh	18-mar-2020 → 31-dec-2021	Online (Whatsapp)
Two civil society webinars on child protection and Covid in India	22-may-2020 11-sep-2020	Online (Zoom webinars)
Community Centred Action & Child Support (NGOs)	22-oct-2020 → 31-apr-2022	Online (Zoom meetings and shared organisational documents)

## Interviews

No.	Date	Participant	Organisation	Language	Location
1	17-feb-2019	Sonali, Counsellor	Suraj	Hindi	Madhya Pradesh
2	26-feb-2019	Basanti, Team Member	Suraj	Hindi	Madhya Pradesh
3	27-feb-2019	Radha, Team Member	Suraj	Hindi	Madhya Pradesh
4	28-feb-2019	Pradeep, Coordinator	Suraj	Hindi	Madhya Pradesh
5	03-mar-2019	Kunal, Team Member	Suraj	Hindi	Madhya Pradesh
6	03-mar-2019	Roshan, Team Member	Suraj	Hindi	Madhya Pradesh
7	04-mar-2019	Aditya, Team Member	Suraj	Hindi	Madhya Pradesh
8	23-mar-2019	Acelin, Coordinator	Community Centred Action	English	Tamil Nadu
9	23-mar-2019	Thomas, Director	Community Centred Action	English	Tamil Nadu
10	23-mar-2019	Julian, Team Member	Community Centred Action	Tamil with English translator	Tamil Nadu
11	23-mar-2019	Yadav, Team Member	Community Centred Action	Tamil with English translator	Tamil Nadu
12	23-mar-2019	Cynthia, Team Member	Community Centred Action	Tamil with English translator	Tamil Nadu
13	27-mar-2019	Prashant, Team Member	Suraj	Hindi	Madhya Pradesh
14	28-mar-2019	Bhaves, Volunteer	Suraj	Hindi	Madhya Pradesh
15	29-mar-2019	Radha, Roshan, Prashant, Team Members	Suraj	Hindi	Madhya Pradesh

16	07-apr-2019	Six women and girls from scrap picking communities, beneficiaries of NGO project	Suraj	Hindi	Madhya Pradesh
17	22-apr-2019	Four members of Child Welfare Committee, one District Child Protection Officer	Government of India	Hindi	Madhya Pradesh
18	23-apr-2019	Kunal, Basanti, Team Members & Pradeep, Coordinator	Suraj	Hindi	Madhya Pradesh
18	24-apr-2019	Jagadish, Director	Suraj	English	Madhya Pradesh
20	06-mar-2020	Nishit Kumar, Former Head of Communications and Strategic Initiatives	CHILDLINE India Foundation	English	Mumbai
21	31-mar-2020	Anonymous, Former Senior Employee	CHILDLINE India Foundation	English	Online
22	01-apr-2020	Ingrid Srinath, Former Executive Director	CHILDLINE India Foundation	English	Online
23	15-sep-2020	Jeroo Billimoria, Founder	CHILDLINE India Foundation	English	Online
24	24-dec-2020	Anonymous, Senior employee	CHILDLINE India Foundation	English	Online

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## Documents

### Documents authored by CHILDLINE India Foundation

#### *Public reports*

1. A call can change a life
2. Analysis of calls 2015-16
3. Analysis of calls 2016-17
4. Anniversary report: The calls come late in the night. 'Didi, can you come? Sonu was beaten. He is bleeding very badly.' 'Didi, can you help? There is a baby lying under a seat in the train.'
5. Annual Report 2017-18
6. Annual Report 2018-19
7. Annual Report 2018-19 (Hindi)
8. CHILDLINE India Foundation's website ([www.childlineindia.org](http://www.childlineindia.org))
9. CHILDLINE Se Dosti 2019
10. Child Rights and Law: A guidebook for legal interventions
11. Cross Connections: the partnership model of CHILDLINE India
12. Essentials of child protection
13. Frequently Asked Questions on child helplines
14. Laying the foundation: getting started and taking off
15. Listening to children: an overview of CHILDLINE
16. Overview of programme for children in contact with railway stations
17. Recording children's concerns: documenting CHILDLINE
18. Spreading the word: Childline awareness strategies

#### *Documents gathered during field study*

1. CHILDLINE National Resource Directories (2006)
2. Child Protection Policy
3. Poster from child labour exhibition co-organised by CHILDLINE
4. Street awareness paintings about CHILDLINE

## Documents collected during ethnography with Community Centred Action (NGO)

1. Child rights project toolbox
2. Deed of declaration for Trust established by NGO
3. Fund application
4. Four Newspaper clippings from Danish newspapers about Community Centred Action and the Director, Thomas
5. “Outcome Harvesting” reports (monitoring reports from Community Centred Action to their donor about outcomes)
6. Project status reports
7. Promotional material about child rights project
8. Report on NGO formation of Village Level Child Protection Committees
9. Stakeholder analysis
10. Stakeholder overview

## Documents authored by Government of India

### *Public documents*

1. 8<sup>th</sup>-12<sup>th</sup> Five-Year Plans
2. Annual Report 2016-17 from Ministry of Women and Child Development
3. The Commissions for Protection of Child Rights Act, 2005
4. The Foreign Contribution (Regulation) Act, 2010
5. The Foreign Contribution (Regulation) Amendment Act, 2020
6. The Foreign Contribution (Regulation) Rules, 2011
7. Handbook on Child Marriage Act
8. The Integrated Child Protection Scheme (ICPS) – A Centrally Sponsored Scheme of Government – Civil Society Partnership
9. Juvenile Justice (Care and Protection of Children) Act, 2000
10. Juvenile Justice (Care and Protection of Children) Act, 2015
11. Juvenile Justice Rules, Madhya Pradesh
12. Memorandum of Understanding between Ministry of Women and Child Development and Childline India Foundation

13. Mission Vatsalya. Savdhanta Sanrakshnam: Implementation Guidelines
14. National Plan of Action for Children
15. National Policy for Children
16. National Policy on the Voluntary Sector
17. NITI Aayog's website ([www.niti.gov.in](http://www.niti.gov.in))
18. NGO Darpan (<https://ngodarpan.gov.in>)
19. The Prohibition of Child Marriage Act, 2006
20. The Protection of Children from Sexual Offences Act, 2012
21. The Protection of Human Rights Act, 1993
22. Raising happy children and providing safe childhoods: a reader
23. Right of Children to Free and Compulsory Education Act, 2009
24. Study on Child Abuse: India 2007

*Documents gathered during field study*

1. Description of local Mahila Sashaktikaran Scheme
2. Form to present child to Child Welfare Committee
3. Posters from local Child Welfare Committee's office
4. Wall painting at local Integrated Child Protection Scheme office

Documents collected during ethnography with Suraj (NGO)

1. Activity Report 2017-18
2. Annual Report 2014-15
3. Annual Report 2015-16
4. Application for grant-in-aid to CHILDLINE India Foundation
5. Audit Report 2016-17
6. Audit Report 2017-18
7. Child labour task force and manifesto by local Save the Children branch
8. Child rights wall paintings
9. City Action Plans
10. Course description for Social Work course at local college (from interns at Suraj)
11. Daily management documents (list of daily activities, phone testing sheet, registry books for incoming and outgoing calls, incoming and

outgoing letters, and case details, registry of staff's movement, list of areas to do outreach in, task list, travel sheet, template for case file details, check list for case files, letters to Child Welfare Committee, notes from counselling sessions, diet lists for sheltered children, hand-over form from parents to children, declaration for employers of child labour, individual outreach reporting formats, documents from case visits (e.g. notes, police letters, mark sheets for age proof, form to fill out in case of begging children, list of staff responsibilities, staff shift plan)

12. Internal presentations (presentation of status of activities to CHILDLINE India Foundation, introductory PowerPoint about Suraj, introductory PowerPoint about CHILDLINE)
13. Monthly Reports (April 2018-March 2019)
14. Monthly Reports for Suraj's other branch (April 2018-March 2019)
15. Organisational budget
16. Partnership agreement between Suraj and CHILDLINE India Foundation
17. Planning documents (for "Open house" and advocacy activities)
18. Posters (poster of local responsibilities under the Juvenile Justice Act, schedules and contacts for staff, posters about CHILDLINE, anti-child marriage awareness poster, CHILDLINE wall-paintings and posters at local college)
19. Promotional pamphlet
20. Reports from "Open house" activities
21. Three articles from local newspaper about CHILDLINE
22. UNICEF training handbook on child protection

### Documents authored by the United Nations

1. Children's alternative report to the UNCRC 2013 (India)
2. Concluding observations on 3rd and 4th report of India
3. Convention on the Rights of the Child
4. General comments UNCRC 1-25
5. General Day of Discussion: The Private Sector as a Service Provider and Its Role in Implementing Child Rights"

## Other documents

1. Letter to National Commission for Protection of Child Rights from CSOs

## Media

1. CHILDLINE India Foundation's awareness videos:
  - a. CHILDLINE 1098 Film
  - b. CHILDLINE Genesis Film
  - c. Corona virus awareness video
  - d. 'Das-nau-aath kar lo baat': Outreach documentary by Sophia students
  - e. Komal
  - f. Like sisters: award-winning film on child marriage
  - g. Nazariya
  - h. Public Service Advertisement For Children in Distress on Railway Station: CHILDLINE 1098
  - i. The Rose
2. CHILDLINE India Foundation's Instagram posts 2020-2021 (48 posts chosen from relevance criteria), 2 Instagram posts from Ministry of Women and Child Development, 11 Instagram posts from Suraj.