

## Human Rights Consulting

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#### 1 Introduction

As human rights approaches are gradually expanding into all areas of social, political and economic life, there is an increasing range of actors who are faced with challenges of applying human rights in concrete terms. Human rights consulting refers to those activities which are aimed at helping these actors - both duty-bearers and rights-holders - to meet these challenges and overcoming problems in implementing or claiming human rights. Human rights consulting is part of the broader field of human rights practice.

This contribution intends to show what human rights consulting consists of, which steps are relevant in human rights consulting, which competencies human rights consulting requires, and some dilemmas that human rights consulting involves. It is primarily based on my own experience as a freelance human rights consultant since 1998, including as partner in the HumanRightsConsulting Vienna since 2006. It is thus necessarily subjective in nature.

#### 2 Understanding Human Rights Consulting within the Broader Context of Consulting

According to the Oxford dictionary, consulting is *“the business of giving expert advice to other professionals”* and a consultant is *“a person who provides expert advice professionally”*.

A classical approach in consulting literature (Edgar Schein) distinguishes three models of consulting which are of relevance to human rights consulting as well.

Model 1- The purchase of expertise model: This model is characterized by a client having made up what the problem is and what kind of help she/he would need. E.g. an organization would need to know the human rights implications of a dam project for its campaigning and asks a consultant to provide this expertise.

Model 2 - The doctor-patient model: This model is a variant of the above mentioned expert model. The client knows about a problem, but asks the consultant to make a diagnosis and recommend what of kind of measures will solve the problem. E.g. an organization asks consultants to undertake an anti-discrimination audit, diagnosing where the organization stands and recommending measures to improve the situation.

Model 3 -The process consulting model: This model is based on the understanding that the consultant helps the client in engaging in a learning or change process. The main difference to the other models is the relationship between consultant and client. It is based on the assumption that the diagnosis must be done in a joint process between consultant and client, that the client continues to “own” the problem and cannot put it on the shoulders of the consultant. And it is based on the systemic view that diagnosis and intervention cannot be separated. E.g. an organization wishes to mainstream human rights and asks consultants to accompany this process.

It is useful to take into account two other general issues regarding consulting: First, a consultant is "someone who has influence over an individual, group, or organization, but who has no direct authority to implement changes." (Peter Block). Consultants are not surrogate managers who act on behalf of, or in place of, a manager, and make decisions. This is relevant in the field of human rights as it helps deal with frustration. Although one would want to influence the situation toward a desired goal (human rights implementation), one must know about one's limitation as a consultant. Second, a distinction is regularly made between internal and external consultants. Internal consultants are those who operate within an organization, external consultants are those whose expertise is sought from outside the organization, on a temporary basis and usually for a fee.

### 3 What Does Human Rights Consulting Encompass?

Human rights consulting encompasses a wide range of activities for a wide range of actors in different areas.

People look for advice because they have a problem that they cannot solve on their own or see a need for change which they cannot handle alone. So they seek help from someone else. In the field of human rights, this problem might be (criticism of having committed) human rights violations that are attributable to an institution, *e.g.* the police or a business company. This might also be the recognition that institutional reform is necessary and that human rights are a fundamental element of modernization processes nowadays, *e.g.* in transformation countries. Furthermore, this might be - in the case of human rights defending organizations - a key element of an envisaged human rights strategy that is missing and that they themselves cannot provide internally.

The selection of the following activities mirrors my own experience. It is structured along the three models described above:

Expert model:

- Writing expert opinions: A legal and/or political question related to human rights might arise in a certain context (*e.g.* What are the human rights consequences of oil drilling operations?). Consultants having the relevant expertise are called to assess the situation against national or international human rights standards and propose policy measures.
- Empirical and legal research: Advice can consist of broader research issues, such as the analysis of the situation of (specific) human rights in a certain country.
- Elaboration of tools of human rights work: Consultants might be asked to write *e.g.* training manuals, monitoring guides, policy guidelines, impact assessment tools.
- Human rights case work: Consultants might represent clients legally in human rights proceedings at the national and international level

Doctor-patient model:

- Auditing, monitoring, inspection: An institution is diagnosed with a view to understanding whether human rights obligations and responsibilities are met, which structural problems might contribute to certain problems and what could be done to improve the situation.
- Evaluation: An organization might want to know whether a human rights campaign has been carried out in a professional way and what the impacts of it were. They might want to ask

consultants to evaluate the campaign both in terms of project management standards and of human rights impact.

Process consulting model:

- Developing a human rights strategy for a multinational enterprise and accompanying the process of implementation
- Mainstreaming of human rights into all aspects of a public institutions, such as a police organization.
- Bringing in technical expertise or process know-how in reform processes/projects, *e.g.* in implementing a human rights based approach in development

Training activities are often sought after and might belong to either of the three models, depending on the context

#### 4 Steps in Human Rights Consulting

Consulting practice and pertinent research have shown some key steps of successful consulting processes. These are relevant to consulting activities in all three models, but are of particular importance for process consulting.

##### Step 1: Contact and contract

A consulting process normally starts with a contact (most often through a telephone call) between a client and a consultant. As said, clients seek a consultant because they have a problem or face a challenge or see the need of improvement in some areas, and they recognise they cannot manage this situation on their own.

It is crucial at this point of first contact for the consultant to understand the problem and see whether he/she is able to help. It is regularly a first meeting where the perspectives on the problem and possible solutions to it are exchanged. This involves some background research on the organisation and the issue at stake.

The next part is establishing a more formal working agreement (“a contract”) which should clarify the following issues: What is the scope of the work? What are the issues at stake? What are the expected outcomes? What is the approach taken? What are the respective roles of the consultant and the client? How can one work together on this? How is the respective work acknowledged in a final written product?

Depending on the type and complexity of the task, the architecture and design of the consulting process must be decided on in this phase.

This phase of contracting is of crucial importance for the overall success of the project. Unclear contracting often leads - and has led, in my case - to problems arising during the project execution.

## Step 2: Data collection and analysis

In all consulting projects which encompass a diagnosis of the situation, data collection and analysis are relevant, in order to be able to develop a deeper understanding of the issues and the characteristics of the organisation one consults.

This collection of relevant data refers to the formal parts relevant to an organisation – its structure, policies, directives, processes, job descriptions – as well as to informal parts – atmosphere, feelings and attitudes, informal power structures, cultural issues *etc.* Methodologies used in this phase include interviews, focus groups, workshops, SWOT (Strength/weakness/opportunities/threats) analysis, study of documents.

Furthermore, the data collection is highly suitable to already partly addressing some attitudinal questions. Human rights regularly face a lot of resistance within organisations such as the police or business companies. Often it is felt to be overly moralising, “not our business”, too abstract and intimidating. By interviewing a broad range of relevant actors, *e.g.* top and middle management, consultants can get a “feeling” for the obstacles and sensitive areas that need to be tackled with caution. Moreover, one has to bear in mind that, from the systemic perspective, interviewing is not only collection of data but already constitutes an intervention into the system.

Data collection leads to the analysis of these data, and this analysis is regularly summarised in a succinct way (*e.g.* summary reports).

## Step 3: Feedback and decision on the way forward

The data collection results, including the different views of stakeholders involved, and its interpretation must be fed back to the client. This prepares the way for creating a common understanding of what the situation is (“diagnosis”), which, in turn, is the basis for deciding on concrete measures.

The data collection, for example, shows that country managers of a business company might have a particularly important role for human rights implementation at the country level, but are concerned about applying human rights in different cultural settings and associate them with moralistic attitudes.

These results would have to be taken very seriously when deciding which type of action is the most suitable one. Any intervention must be carefully designed in line with the principle of “connectability”, being seen to understand the reality and needs of the persons involved.

Deciding on the way forward requires at least the following: thinking in alternatives, conjuring up new ideas, brainstorming and narrowing options down to select the best way forward.

#### Step 4: Implementation

Implementation is obviously the most relevant issue in this process.

The more classical “purchase of expertise” model activities produce, *e.g.*, training manuals for police trainers, position papers, evaluation reports *etc.*

The description of some implementation measures that the Austrian based oil-company OMV has undertaken to implement human rights shall illustrate what implementation might mean in a process consulting approach.. The OMV has adopted a “*Human Rights Policy*”, which states the company’s basic approach to respect, fulfil and support the fulfilment of human rights within its sphere of influence, and a “*Human Rights Matrix*” which graphically maps business activities and corresponding responsibilities in the light of international human rights standards. These responsibilities are further categorised as essential, expected and desirable. This exercise has several important functions:

- It helps create awareness of the human rights relevance of certain activities, a major element in any mainstreaming exercise; *e.g.* the fact that any pipeline construction seriously interferes with the right to property and adequate standard of living.
- It helps identify gaps between the actual situation and human rights standards, *e.g.* in the areas of grievance channels, community relations management or non-discrimination.
- It helps prioritising measures to take, with essential responsibilities given priority over expected ones.
- It helps facilitating dialogue between the human rights movement and the business field by creating a common reference system, based on human rights.

The elaboration of the “*Human Rights Matrix*” tool has been accompanied by other measures:

- Awareness-raising and training activities with top and mid-level management.
- Elaboration of an e-learning tool.
- Self-assessment exercises of country operations on the basis of a “Human rights self-check” questionnaire.
- Consulting visits to OMV countries to assess implementation of the matrix, with the help of external consultants.

#### Step 5: Evaluation and learning

A consulting project needs constant evaluation and reflection in order to understand whether it goes in the right direction and/or is having the desired impact. Evaluation and reflection are – like a red thread - part of the process all the way. In particular, such systematic reflection is stressed as fundamental in systemic consulting

Obviously, an evaluation should be part of the end phase of a project, whether with a view to formally closing it or with a view to deciding how to extend or transform it.

## 5 Competencies of human rights consultants

Professional human rights consulting is based on a sound (normative) human rights expertise, in combination with professional consulting expertise. This mix of expertise might most easily be found in a team of consultants.

Human rights knowledge and skills include: function of human rights in society, (historical) development of human rights, understanding of human rights principles (esp. principle of proportionality, principle of non-discrimination, state obligations to respect and ensure human rights, universality and indivisibility), international human rights documents, contents of human rights norms, important international human rights documents, human rights mechanisms and organizations, application of human rights standards to concrete situations, identification of human rights violations.

Depending on the consulting model chosen, additional areas of knowledge and skills become fundamental for successful consulting, in particular, those related to organisational consulting. These include characteristics of organisations and social systems, business logic and functioning, (intercultural) communication, , management/steering of (complex) processes and projects, systemic analysis, listening and interviewing and moderating skills.

The above enumeration of competencies is a first attempt and needs to be further looked at and systematised. What transpires from it very clearly is the fact that human rights consulting must be based on a multidisciplinary outlook. It requires a mix of legal, ethical, political, sociological, psychological, didactical and communication theory approaches which must be integrated into the overall approach.

Both research on human rights practice and on consulting stress the fundamental importance of the attitude dimension for effecting positive system change. The following competencies emerge as relevant, some more directly related to human rights, others more specifically related to consulting: respect for oneself and respect for others based on the dignity of all persons, valuing and commitment to equality, including gender, awareness of one's own responsibility, authenticity, positive regard towards others, empathetic understanding (cf. Chapter "Human Rights Training"), open mindedness, willingness for reflection, readiness to learn, preparedness to deal with criticism, solution-orientation or multipartiality.

## 6 Ethics and Dilemmas of Human Rights Consulting

Finally, it is important to flag some issues regarding the ethics of human rights consulting and pertinent dilemmas.

- As a human rights consultant, you obviously want to effect positive human rights change. Yet, one has to recognize inherent limitations. Consultants have a certain influence, but no direct authority to implement change.
- "Do no harm"-principle: This fundamental principle of humanitarian action also applies to human rights consulting. Any activity must avoid doing harm to people. This refers *e.g.* to arrangements for doing interviews during auditing work (*e.g.* with employees), to safeguards

for data *etc.* But it also refers to the possibility that - in the worst case – human rights consulting might be sought to justify human rights violations.

- “Fig leave”-risk: A related concern flags the danger that human rights activities of companies or of public institutions are undertaken solely in order to show to a critical public that the organisation takes human rights seriously, but in fact does not. The consultant might then become the naïve provider of this fig leave.
- An external consultant must be aware of the danger of becoming part of the system one consults, thereby losing the critical distance to it. Entering a system means being exposed to socialising forces that tend to “drag you in” into its specific logic.
- Often, consulting comes about as a result of (public) pressure on duty-bearers in the public or private sectors to seek human rights advice. This fact might create difficulties with regard to the building up of a relationship of trust between client and consultant.

This enumeration of dilemmas of which consultants need to be aware of is certainly a preliminary one. What is fundamental in meeting these and other challenges is an attitude which is fundamental to human rights consulting throughout: engaging in systematic self-reflection.

## 7 Further resources

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Schein, Edgar H., *Process Consultation Volume II, Lessons for Managers and Consultants*, Reading/Massachusetts et al., 1987.