Promoting and Defending Economic, Social and Cultural Rights

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their own experience in civil society and provided candid reactions and recommendations. This *Handbook* is written for NGOs, and it attempts to present a picture of reality as actually experienced by NGOs, rather than an idealised image of how the system is supposed to work. The volume is able to take a different approach than would be appropriate in an official UN document.

NGO focus groups in Canada and the Philippines met to discuss the draft *Handbook* and individual reviewers in South Africa contributed critiques and insights as well. A full day focus group, which produced many recommendations for the *Handbook*, was held in Ottawa in September 1998, at the headquarters of the International Development Research Centre (IDRC). To ensure a diversity of perspectives, I invited individuals from NGOs and institutions focused on both international and national social development issues as well as human rights. I wish to reiterate my thanks to the many participants, as well as to those who co-operated with project colleagues during the related review processes in South Africa and the Philippines.

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Over the past couple of years, several colleagues have been participating in writing other kinds of manuals focused on economic, social and cultural rights. Through discussions with these colleagues, I have made a conscious effort to try to ensure that there would be a minimum of overlap in our varied efforts. Though I have not had an opportunity to see the various draft publications, it appears that each of the other pending resources will be very worthwhile in its own right, serving core purposes different from those of the current Handbook.

Support for the Handbook

This Handbook would not have been possible without the generosity of the Ford Foundation, the governments of Denmark and the Netherlands, the John D. and Catherine T. MacArthur Foundation, and the Joyce Mertz-Gilmore Foundation. We are grateful to them for their financial and moral support of the ESCR Project, and their patience during the time it took to turn the Handbook from an idea into a reality.
Dedication

For a guidebook, it seems inappropriate to insert a special page to announce a dedication from the author; yet a dedication is warranted. I wish to dedicate the Handbook to those who have held fast to the idea that our shared responsibility for the basic needs and rights of others does not stop at our individual or national doorsteps. Among those who taught me such lessons by their words and actions were the late Walter S. Tarnopolsky, a renowned law professor, Justice of Appeal, member of the UN Human Rights Committee and mentor to many. As always, important lessons on using one’s opportunities to fulfil community and global responsibilities continue to be imparted by my father, Robert D. McChesney, my mother, Isabelle Orton McChesney, and admired members of our extended (and extensive) families.

Allan McChesney
Ottawa, Canada
Foreword*

Overview

This Handbook was produced by the AAAS/HURIDOCS Economic, Social and Cultural Rights Violations Project (ESCR Project). The ESCR Project began in 1996, with the goal of developing tools, methods and resources to help non-governmental organisations (NGOs) to identify, monitor, and document violations of these important, but often neglected, human rights.

In everyday language, monitoring means observing, collecting information, keeping track of changes, and reporting on particular kinds of activities. For example, an NGO might want to keep track of the number of girls enrolled in primary or secondary school in a given area, compared to the enrolment of boys, as well as whether these numbers increase or decrease over time. By tools, we mean various practical aids or devices that can be used in monitoring. This Handbook is a tool for monitoring because it provides practical guidance on how to keep track of human rights activities and progress. The Thesaurus of Economic, Social and Cultural Rights, described below, is also a monitoring tool.

By methods, we are referring to the approach or process by which monitoring takes place: that is, the actual steps that an NGO follows in keeping track of an activity. An NGO could collect information on a particular topic by interviewing people, sending out questionnaires, reading and cutting out newspaper articles, examining government records and reports, or counting the number of times people engage in an activity during a certain period of time: for example, how many women (or men) collect water at a given well during a 24-hour period.

By resources, we mean useful information or other assistance. This Handbook contains a wealth of resource information. It lists many names and addresses of governmental and non-governmental organisations that promote, protect and defend economic, social and cultural human rights, as well as books and articles on the subject and useful website addresses. Resource information is scattered throughout the text, and appears in concentrated form in the Annexes at the back of the book.

*Note that the Handbook uses British English spelling, in keeping with common United Nations practice.
The Thesaurus of Economic, Social and Cultural Rights

The Handbook is not the first tool to be developed by the ESCR Project. That honour belongs to a book entitled The Thesaurus of Economic, Social and Cultural Rights: Terminology and Potential Violations. The Thesaurus is a kind of catalogue of ESC rights, following the order of the rights as they are listed in the International Covenant on Economic, Social and Cultural Rights (ICESCR or the Covenant). It organises, classifies and presents the entries on rights and violations in a logical and systematic fashion. The initial categories are very broad; the entries for the rights and corresponding violations within these categories become increasingly specific and detailed at each succeeding level. In addition to serving as a monitoring tool, the Thesaurus is an educational resource, illustrating the range of actions and omissions that come under the general heading of ESC rights and violations. A typical reader is likely to learn that actions or events that he or she may never have considered a human right or rights violation may very well fall within these categories. The Thesaurus currently exists in two versions, as a printed book, and as an application on the World Wide Web, at http://shr.aaas.org/ethesaurus.

The Internet version of the Thesaurus, called the “e-Thesaurus”, contains many documents on economic, social and cultural rights that are “linked” (connected electronically) to the website. There are currently approximately 150 documents in its database, and the number continues to grow. The documents are primarily legal documents, produced by various branches of the United Nations, as well as by regional bodies such as the Organization of American States (OAS) and the Organisation of African Unity (OAU).

The Handbook and the Thesaurus are companion resources. Although each one is self-contained and can be used independently of the other, the information in each makes the other one easier to use and understand. The Handbook explains in clear, everyday language the basic concepts presented in the Thesaurus, while the on-line version of the Thesaurus contains links to most of the resource materials from international human rights law that appear in the Handbook, including treaties, declarations, and other documents that are important in interpreting and understanding economic, social and cultural rights. One example of such a document is the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (described in Chapter 7). This feature of the Thesaurus will make it easy for readers who can connect to the World Wide Web to find many of the resources referred to in the Handbook. The quickest way to locate a particular item may be to search the document database of the Thesaurus.
A Word on the World Wide Web and Technology in General

The Handbook and the Thesaurus were developed to take advantage of the capabilities of the World Wide Web, in view of the increasing number of NGOs from all over the world with access to this technology—a number that will continue to grow as time passes. At the same time, we realise that access to the Internet is not evenly distributed throughout the world, or within an individual country. For a variety of reasons, many NGOs will not gain access to this technology for a long time. Keeping this reality in mind, we have used a dual strategy. To make the resources produced by the ESCR Project as widely available as possible, we are producing them in both print and Internet versions. The Internet version will be housed on the AAAS ESCR website, at http://shr.aaas.org/escr. It will be updated regularly as new material becomes available. The print version will also be updated periodically.

A Note for Lawyers

Because the Handbook was written for NGOs, rather than lawyers, it often uses non-technical language to describe the legal concepts in the field of human rights. We have tried hard to present the legal concepts accurately, but our emphasis has been on clarity and accessibility of the information, rather than on comprehensive technical accuracy. Lawyers using the Handbook should be aware of this.

The Handbook’s Creators

The Handbook was written by Allan McChesney, a Canadian human rights lawyer, advocate and training specialist, who has for many years conducted human rights work for the United Nations, regional intergovernmental organisations, government agencies, community-based groups, and national and international non-governmental organisations. It was produced by the Science and Human Rights Program of the American Association for the Advancement of Science (AAAS) and HURIDOCS (Human Rights Information and Documentation Systems, International), two NGOs with a long history of developing, disseminating and providing training in methods for monitoring and documenting human rights abuses.
A Comment on the Resource Listings

Resource information on economic, social and cultural rights is widely scattered and can be hard to find. One of the purposes of the Handbook is to assemble in one place useful resource and contact information on these rights. Doing so, however, entails certain risks. The first is that the information is, by its very nature, ephemeral. Addresses and phone numbers; website information; and names, titles and organisational affiliations of knowledgeable individuals are always changing. Existing information becomes outdated and new information is added all the time. Although we have double-checked the resource information, some of it will be out of date as soon as the Handbook is published. A second caveat is that we make no claim to completeness for the resource information that is included. Such a claim would be impossible. The field of economic, social and cultural rights is large and it continues to grow. It cannot all be captured between the covers of one book.

The resource information, incomplete and changeable though it is, does illustrate the range and types of materials and data available, however. Even if a particular listing does not give the searcher a definitive answer to his or her question, it provides a place to begin looking for it. It can start the reader down a trail that will ultimately lead to the answer, and reveal unexpected and productive new paths along the way.

Throughout this Handbook, and most notably in Chapter 12, we ask for readers’ help in adding to the resource listings and making suggestions to improve future editions. Your ideas and insights will help to ensure that this Handbook truly meets the needs of its primary audience—NGOs around the world that are engaged in making economic, social and cultural human rights a reality for everyone. We look forward to hearing from you.

Sage Russell
AAAS Science and Human Rights Program
INTRODUCTION

Why Did We Write This Book?

The Purpose of the Handbook

This Handbook is a resource for NGOs and others active in civil society who want to prevent or stop violations of economic, social and cultural rights and promote fulfilment of these rights at the national and international levels. The Handbook discusses laws and practices that can help to accomplish these aims and gives many examples of achievements by NGOs and others who are promoting and defending economic, social and cultural rights. The Handbook is intended primarily for human rights “practitioners”, those who have some knowledge and experience in the field and who may give advice on human rights to their own NGO or to other NGOs. We trust that this collection of practical information, case illustrations and analysis will prove to be a worthwhile resource for anyone desiring to understand or advance economic, social and cultural rights.

The Universal Declaration of Human Rights

The ideas that we hold today about human rights date back about fifty years, to the end of World War II, the founding of the United Nations, and the drafting of the Universal Declaration of Human Rights (Universal Declaration or UDHR). Adoption of the Universal Declaration in 1948 by the brand-new UN General Assembly was one of the most important and lasting accomplishments of the UN’s early years.

Since that watershed event, there have been many advances in the field of human rights. Important treaties, declarations and other materials have been drafted at the international, regional and national levels; and methods and systems to assess compliance (referred to in this Handbook under the general heading of “monitoring”) have been developed. As the understanding of human rights has evolved over time, from a seemingly impractical ideal to a widely held set of shared beliefs, the field has grown more complex. Individuals and
organisations around the world devote themselves to the promotion and protection of human rights; academics study, write and debate about human rights issues; and governments frequently proclaim the importance of human rights in their foreign policy statements.

In spite of the growing size and complexity of the field, the basic premise of human rights is very simple and has not changed significantly since 1948. Individuals are entitled to certain rights simply by virtue of being human. Human beings are entitled to live lives of dignity and respect, without suffering discrimination, and to participate in making the decisions that affect them. The Universal Declaration proclaims these principles, listing specific freedoms and protections that are fundamental components of a life of dignity, respect, equality and participation. The treaties and declarations that have followed the Universal Declaration have clarified and refined ideas about the scope and nature of the rights, affirmed that they belong to everyone, and required governments to ensure that their people are able to enjoy their human rights. The core human rights values they proclaim remain unchanged.

Ideal vs. Reality

Although the importance of human rights is well accepted and theoretical development in the field has proceeded steadily, there is all too often a clear and painful disconnect between the inspiring ideals of human rights and the depressing reality of how many people are forced to live. Traditionally, human rights are viewed as an agreement or relationship between an individual (either singly or in groups) and the government. This relationship entitles individuals to make claims on their government if it suppresses or neglects that individual’s agreed-upon human rights.

There are obvious problems in entrusting governments with the responsibility of keeping track of and publicising their own performance in meeting their human rights obligations. Yet, with few exceptions, the international and regional human rights monitoring systems are set up to do exactly that. The international system lacks the strong enforcement mechanisms, including laws and regulations, police forces and court systems, that are available to national governments when they operate in the domestic sphere. The international human rights system relies instead on states’ voluntary co-operation in living up to their human rights commitments.
The Role of Non-Governmental Organisations in Monitoring Human Rights

These two phenomena—1) the difference between the theoretical acceptance of human rights and the harsh reality of peoples’ lives in far too many places, and 2) governments’ poor track record in monitoring, publicising and correcting their own shortcomings—have created a large gap that has been filled by individuals, charitable organisations, civic associations, trade unions, educational institutions, religious groups and other private actors. These groups are often referred to collectively as civil society, in contrast to commercial or military and other government entities. The contributions of civil society are indispensable in helping people to live lives of dignity and respect, at all levels of human society around the world—from the corridors of the United Nations and national governments, to individual households and families, and everything in between. The range of activities undertaken by civil society organisations to promote, protect and defend human rights is very broad. It includes monitoring and reporting, education and awareness-building, direct service delivery, community development and mobilisation, participation in the political and judicial processes, trade union work, consumer or environmental actions, and all the various ways these activities intersect and overlap, to name just a few.

For ease of reference, throughout the Handbook we will most often refer to these civil society groups collectively as “non-governmental organisations” or NGOs. The creators of this Handbook recognise and salute the indispensable contributions of NGOs to the realisation of human rights everywhere. Our purpose in producing the Handbook is to provide ideas, information, tools, resources, and encouragement to enable NGOs to accomplish this vital role even more effectively. Although the primary audience for this Handbook is non-governmental organisations, and it was written with their needs in mind, any individual or organisation wishing to use this resource is welcome to do so.

Human Rights Are Interdependent

Thus far we have talked in terms of human rights in general, rather than separating them into the traditional categories of civil and political rights on the one hand, and economic, social and cultural rights on the other. This is intentional. Fundamental human rights principles include treating people with dignity and respect. In very broad terms it can be said that the goal of civil and political rights is
to ensure that people are treated with respect, and that the purpose of economic, social and cultural rights is to make sure that they can lead lives of dignity. In reality, though, it is impossible to have one without the other.

The subject of this Handbook is economic, social and cultural rights. We have chosen this focus to help erase the artificial distinction between the so-called two “categories” of human rights. It may seem odd to focus on one particular “type” of human rights as a way to eliminate the whole idea of categories. We do so in order to correct an imbalance. Over the years, civil and political rights have received the lion’s share of attention. As a result, these rights are better accepted and understood than are economic, social and cultural human rights. We believe that to improve the status and realisation of ESC rights, it is necessary to devote more time, effort and attention to understanding them. This Handbook is one attempt to do that.

The good news is that many other individuals and organisations are also contributing to this effort. During the past ten years, economic, social and cultural rights have become more prominent and better recognised as full-fledged human rights on an equal footing with traditional civil and political rights. This Handbook describes the work that some of these people and organisations are doing to improve the understanding, acceptance and realisation of economic, social and cultural rights. More information on these organisations can be found in Annex E.

The topic of economic, social and cultural rights is vast, and a single guidebook cannot claim to be comprehensive. This Handbook concentrates on a few aspects of the topic. These include: what economic, social and cultural rights mean, what it means to commit violations of them, how progress and violations may be monitored, and how implementation can be improved. A variety of monitoring and promotional methods and approaches are described, but the emphasis is on how the international system set up by the United Nations works and how NGOs can participate in that process. Throughout this guide we point to other sources of information for those who want to learn more.
An Overview of the International Bill of Rights

CHAPTER 1

An Overview of the International Bill of Rights

The Universal Declaration of Human Rights, adopted by the United Nations General Assembly in 1948, is the clearest outline available of what the international community considers to be the basic human rights to which all people on this earth are entitled, simply because they are human.

A declaration is a statement of principles, with moral force, but lacking legal force. In broad terms, international human rights concern the relationship between a state and its people, and represent claims that people can make on their governments. Two treaties were drafted to turn the principles in the Universal Declaration into legal obligations for the states that ratify them.* These two treaties are called the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR or the Covenant). By 1976 enough countries had voluntarily agreed to meet the obligations contained in these treaties (had ratified them) that each treaty became legally valid—that is, enforceable—with regard to the countries that ratified it. Most countries have ratified both Covenants. (Signing a treaty signals the State’s intention to comply with its provisions. Ratification makes this intention compulsory, by adding the legal obligation to comply with the treaty.) A state that ratifies a human rights treaty is known as a State Party to that treaty. Each State Party must report periodically to the committee set up by the United Nations to monitor States Parties’ compliance with the provisions of the treaty.

The Universal Declaration has been the core source for human rights law since it was adopted. The importance of the Universal Declaration has been continually emphasised by the UN and its member nations since 1948, and almost every country in the world is a member of the UN. The rights in the Universal Declaration entitle us to freedoms, opportunities and support that we need in order to

* Some scholars maintain that the Universal Declaration’s importance as the foundation of modern human rights gives it the status of customary law, which is binding on all countries. Chapters 2 and 4 touch on this issue further.
stay alive, to have our human dignity respected, and to enjoy a decent life. Among the rights proclaimed in it are the freedoms to have our own thoughts and opinions, the right to express them to other people, and the right to associate with others. We exercise these civil and political (CP) rights when we strive on our own or co-operate with others to seek greater respect for human rights. Among other civil and political rights are: the right to life; freedom of conscience, religion, movement and peaceful assembly; protection against torture and cruel, degrading or inhuman treatment or punishment, including slavery; access to remedies for violations of rights; prohibition of arbitrary arrest or detention; fair trials in criminal cases; personal liberty and security; protections against arbitrary interference with one’s family, home or reputation; the cultural rights of minority populations; and the right to take part in the conduct of public affairs and in genuine democratic elections.

To lead a full life, however, we also require fulfilment of the economic, social and cultural (ESC) rights in the Universal Declaration. Among the economic, social and cultural rights proclaimed in the Universal Declaration and guaranteed in the ICESCR are the rights of everyone to adequate health care, education, food, clothing and housing. The Covenant also includes human rights to safe and fair conditions of work, marriage and family rights, and the right to receive assistance during economic hardship and in one’s old age.

Other rights recognised in both the Universal Declaration and the Covenant include rights to: a standard of living adequate for the health and well-being of one’s family; safe and healthful working conditions; participation in the cultural life of the community; and the right to benefit from scientific progress and from one’s own creative ideas. The right to join a trade union is in the Covenant (as well as in the UDHR). At the same time, it is also a civil/political right, illustrating how human rights are inseparable. The provision in the Covenant adds the right to strike (with certain limitations), plus rights for unions to function freely and to form federations with other unions. Civil and political rights are strongly linked to economic, social and cultural rights; full enjoyment of one set of rights cannot occur without implementation of the other. It is often said that human rights are interdependent, indivisible and inseparable.

Together, these three documents—the Universal Declaration, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights—are referred to as “the International Bill of Rights”. They are the most important documents in modern international human rights law, because they are the broadest in scope and their provisions apply to everyone.
By an accident of history, the rights that are grouped together in the Universal Declaration were divided up and assigned to one of the Covenants or the other. One consequence of dividing human rights between the two Covenants is what is sometimes referred to as the “second-class status” of economic, social and cultural rights, in comparison to civil and political rights. This is the idea that civil and political rights—important rights like freedom of speech or freedom of religion, or freedom from arbitrary arrest and torture—are more important than having enough to eat or the opportunity to learn how to read and write. In a specific situation, having and exercising freedoms (an element of civil and political rights) may temporarily be more important than having enough food or water (an element of economic, social and cultural rights), but during the lives of most human beings, both categories of rights are inter-dependent.

It is worth remembering that CP and ESC rights both appear in the Universal Declaration, and the UDHR makes no distinction between them. The two International Covenants have the same legal status. In addition, the Covenants themselves sometimes mix the “two kinds” of human rights. Trade union rights are found in the ICESCR, even though these rights share many similarities with traditional civil and political rights; trade union rights are based on the civil and political rights of freedom of association and freedom of assembly. Language is considered to be part of culture; yet language rights and other cultural rights are included in the ICCPR, as well as in the ICESCR.

The development and expansion of legally enforceable human rights did not stop with the International Bill of Rights. The notion that some groups of people, some human rights and some violations need special attention has led to the drafting of a variety of other human rights agreements. There is widespread consensus that four treaties, in addition to the two International Covenants, are especially important. These four treaties, followed by the date they entered into force, are the International Convention on the Elimination of All Forms of Racial Discrimination (CERD, 1969), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1981), the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Torture Convention, 1987), and the Convention on the Rights of the Child (CRC, 1990). Of these Conventions, CEDAW and the CRC are particularly important for economic, social and cultural rights. Like the Universal Declaration, CEDAW and the CRC do not maintain an artificial distinction between types of human rights. They combine civil/political and
economic/social/cultural rights within one document. CEDAW and the CRC are discussed in Chapter 11 of this Handbook.

To comply with their human rights treaty obligations, countries must ensure that the rights of their people are respected, protected and fulfilled. Each government has a responsibility to ensure that its national society offers adequate opportunities for people to enjoy the benefits of Covenant rights. This duty involves ensuring that there are no discriminatory or unfair barriers in the private sector or in public services that prevent people from getting a good education or making an adequate living, whether by obtaining and holding a decent job, running their own business, producing their own food, or making an honest living in some other way.

Governments also directly plan and pay for some services required to fulfil Covenant obligations. To ensure that everyone benefits from Covenant rights, in most countries governments play a key role in providing or monitoring such programmes and services as education, welfare assistance, hospitals, preventive health measures, and the supply and treatment of water. When a government overlooks discrimination that denies equal economic, social or cultural opportunities, or reduces the quality of an existing social service without ensuring that an adequate substitute is in place, it is quite likely that the government is violating its obligations under the Covenant. (Violations of the Covenant are discussed in Chapters 7 and 8 of this Handbook.)
CHAPTER 2

Connections Between Human Rights and Law

2.1 What Are Human Rights?

Ask yourself this question: “What must every human being have, in order to live with dignity and without fear?” If you made a list of what you think are basic human needs, your neighbours—and perhaps the majority of other individuals in the world—would probably agree with most items on that list. A cluster of fundamental human needs might include “love and friendship”, which no government can guarantee. But your list might also mention adequate food, water and health for yourself and your family, freedom from slavery, fair treatment under the law, and a home that is more than just a shelter.

Such basic human needs and values are at the foundation of universal ideas about human rights. Decent food, housing and many other things (including political freedoms) are necessary for a good life. They are so essential that everyone’s rights to adequate food, housing, health, etc., are among the rights proclaimed in the Universal Declaration of Human Rights. Human rights agreed to in numerous international treaties, as well as in the constitutions and laws of countries worldwide, can be traced to the Universal Declaration.

No country or government is allowed to deny universal human rights. The UN itself must also respect, protect and try to fulfil or ensure these rights in its own activities. These human rights belong to each individual. A number of rights involving natural resources, land and cultural heritage are also often seen as rights belonging to groups of people.

2.2 What Is Law? And How Does It Relate to Human Rights?

Imagine a village called Fairplace. Everyone in the village shares one source of water: a small well. Since every child and adult must drink clean water to stay alive, the villagers would need to agree
on how to share the available water. Fairplacers could make and follow rules about how much water each person or family is allowed to take daily or weekly. The rules should also ensure that soap, oil or other harmful substances do not get into the well. And fair rules would normally let visitors obtain some of the water when they are in the village.

If rules permitting everyone to use only a fair share of water are adopted or legislated by a government, or if the rules are established by decisions of judges, then the “rules” are also “laws”. A law is a formal, official rule that is backed by the authority of one or more governments.

Now picture Thugplace, where the law says this: “No one is allowed to obtain water from local wells until the men with the most powerful weapons have taken as much as they want”. Undemocratic rulers sometimes act as if there are laws that do say that. Should everyone obey such a law? If you don’t like the law, it might be dangerous to challenge it. Where civil and political freedoms are respected, it is easier to struggle for other kinds of human rights; the denial of civil and political rights makes it harder to pay attention to a lack of economic, social or other rights. (If you are always hungry or your children are constantly ill, you may not think you have enough time or power to demand better working conditions or to make good use of your political freedoms.)

Most people would oppose a law that denies access to drinking water on an unfair, arbitrary or discriminatory basis. The idea of such a law is offensive. Similarly, a law denying adequate food to one group of people should shock the conscience of a human being. It is not surprising, therefore, that the human rights to adequate living conditions, including food, water, clothing and decent housing, are universal. Many scholars and activists argue that universal human rights should be given priority over the laws of a country that conflict with them. In many countries, a popular way for professors to explain the supremacy of universal human rights over other laws and interests is to refer to the use of “trump cards” or suits in card games—cards that can beat any other card. In most circumstances, human rights “trump” other moral, political and even legal considerations.

Ideally, the constitution and other laws of a country will include protections for human rights, and will require that all laws and practices of governments and their agencies must comply with human rights laws. To make these guarantees real, however, ordinary people must have fair and adequate access to the nation’s justice system, without facing unfair hurdles.
2.3 Are International Human Rights Covered by Law?

Universal human rights are not just polite ideas about treating everyone fairly. They are part of international law, which is based on agreements among countries and on legal principles that are shared by many countries.

According to international law, no country’s laws or practices are allowed to violate universal human rights. National laws are supposed to promote and respect human rights, and to ensure that everyone has the opportunity to benefit from them. If there is a conflict between a country’s laws and universal human rights, in theory it is the country’s laws that should change. In the real world, however, such changes rarely happen unless people bring the law to life by insisting that their own rights be respected, or by trying to protect the rights of other people. This Handbook will be one new tool for those who work toward such goals.

Although international human rights law is found mostly in written agreements among countries, much of it began as unwritten, or “customary” law. Just as modern laws of countries often began as customs, religious values or traditional rules, so did much of international law. The history of customary law, including the banning of slavery and the slave trade, helps to illuminate the power that groups of ordinary people can generate to persuade governments to develop and enforce human rights laws. At one time, slavery was lawful and very common. Combined action by committed citizens, religious organisations and sympathetic politicians eventually made slavery a violation of law in one country after another, until it finally became a violation of customary international law, which is binding on all nations. Only later was the prohibition of slavery written into international human rights treaties. (NGOs, religious groups and others continue to try to eradicate practices that resemble slavery in many countries, such as exploitation of captive labour.)

Worldwide mobilisation of people to assert human rights is not a thing of the past. During the 1990s, a campaign primarily begun by NGOs, joined over time by supportive political figures, led to a new world treaty banning anti-personnel land mines. Continued political and media pressure from individuals and NGOs can also influence governments to ensure that longstanding human rights stated in the Universal Declaration, in international treaties and in national law are publicised, claimed and enforced.
2.4 Is International Human Rights Law Enforceable?

Human rights treaties require countries that have ratified them to submit their human rights performance (good or bad) to international supervision. The reporting systems for monitoring whether States have met their human rights obligations are described more fully in Chapters 10 and 11. In general, though, at the international level, States report on their own performance to bodies set up by the United Nations to monitor each of the six major human rights treaties described in Chapter 1: the International Covenant on Economic, Social and Cultural Rights (ICESCR or the Covenant); the International Covenant on Civil and Political Rights (ICCPR); the International Convention on the Elimination of All Forms of Racial Discrimination (CERD); the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention on the Rights of the Child (CRC); and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Torture Convention). Self-reporting has obvious drawbacks, but countries are reluctant to give up part of their “sovereignty” (power to run their own affairs) and to allow their actions to be judged by outsiders. Not surprisingly, the methods set up for supervising obedience to international human rights law are not as strong or straightforward as the systems for supervising law within countries. The desire by countries to maintain control over their internal affairs makes it hard to monitor and ensure implementation of human rights. There are also other factors that hamper supervision and enforcement:

1. Enforcement of international law requires the voluntary co-operation of governments, yet they are the main violators of international human rights. They don’t like their human rights violations to be exposed or condemned. For that reason, NGO efforts to expose human rights violations are essential, and may sometimes be risky.

2. The UN’s methods to combat violations of human rights usually consist of publicity, political pressure and advice, rather than court cases or other actions that are often used to enforce laws within a country. Punishments for international human rights violations occur rarely, and are not harsh. Besides any public embarrassment suffered by a country or its diplomats, penalties may involve restrictions on trade, investment or diplomatic privileges, which may not cause much harm to a nation’s elite, or to the country generally.
3. The UN uses only a small portion of its resources to encourage protection and fulfilment of human rights. (Remember that governments provide the money for running the UN, and they determine its budget.)

4. There are no UN human rights police, and a world court does not exist (yet) to investigate and prosecute extreme human rights offenders. (For two places where massive human rights violations occurred in the 1990s, Bosnia-Herzegovina and Rwanda, the UN set up special courts, and has considered similar arrangements for Cambodia and other places. An International Criminal Court to deal with certain kinds of serious violations occurring anywhere in the world may be established early in the 21st century.)

Despite the problems that hinder monitoring and protection of international human rights, community-based groups and other NGOs often succeed in their efforts to advance human rights. How do they overcome the weaknesses in the human rights supervision systems set up by the UN and other international bodies?

1. Most international human rights law is not enforced through international organisations. It is enforced within countries. Many national laws (including provincial or state laws) are based partly on international human rights law, so when national law is enforced, it may enforce the international human rights law as well. Enforcement inside a country also occurs if a judge bases a case decision directly on international law, in those countries where the legal system permits or encourages judges to do so.

To encourage national respect for international human rights law, NGOs should ensure that national governments and courts learn more about it and about their country’s obligations under that law. For example, which international treaties has the country agreed to comply with? The country’s Foreign Affairs Ministry should have a list of such treaties, and the UN human rights website also lists the countries that have agreed to comply with each human rights treaty (see Annex D for information on how to navigate the UN human rights website).

2. Most governments respond to public opinion; if enough people and organisations demand improvements in respect for human rights, governments may take practical steps to meet
their human rights obligations. Pressure on governments can come through democratic political processes, through the media, through court decisions, through action by citizens’ groups or trade unions, or through criticism by the UN or other organisations. NGOs can use their knowledge and influence to contribute to all of these avenues for seeking change.

3. In addition to the UN, guarantees for human rights are found in agreements among member countries of a few regional organisations in the world, such as the Organization of American States, the Organisation for African Unity, the Organisation for Security and Co-operation in Europe, and the Council of Europe. A remedy for violations may be found through one of these intergovernmental organisations. In general, regional enforcement procedures are no stronger than those of the UN; however, those of the Council of Europe are much more robust than the UN’s.

4. Even though the UN’s system for promoting human rights is weak, it does achieve some success. If the right UN officials and bodies are given timely and accurate information by government representatives or NGOs, the UN can often influence the way a country treats its citizens. High officials from the UN or from other international bodies sometimes save lives by contacting national political leaders and asking them to prevent or stop human rights violations (such as political or ethnic killings). Longer term improvements in the enjoyment of human rights in a country can be achieved with the help of UN-sponsored education, training and technical advice programmes. These types of assistance are not usually arranged until human rights violations have been exposed by NGOs, however.

2.5 Enforcing the International Covenant on Economic, Social and Cultural Rights through the United Nations—An Introduction

By signing the Covenant, representatives of countries or “States” show their intention to comply with it. At least 140 States (the great majority of the world’s countries) have gone a step further, reinforcing their signatures by officially “ratifying” the Covenant. As a treaty, the Covenant is a contract among States. Each State that ratifies the
Covenant becomes a “State Party” to it, and the State concerned has a legal obligation to abide by it.

According to Article 16(1) of the Covenant, each State Party is required to submit periodic reports to the UN, describing the measures it has adopted and the progress made in achieving the observance of the rights recognised in the Covenant. The Committee on Economic, Social and Cultural Rights (CESCR or the Committee) acts as the supervisory body for the Covenant. The CESCR consists of independent experts appointed by the UN. The Committee considers a State’s submitted report, poses questions to the State’s representatives, and engages in constructive dialogue with the State’s delegation about the situation in their country. The CESCR members then prepare Concluding Observations, containing their opinion on the State Party concerned. This document identifies positive aspects, factors impeding implementation of the Covenant, principal subjects of concern, and recommendations on how the State can foster improvements.

The CESCR also publishes General Comments explaining many facets of the Covenant and how it can be implemented better, so that States can be more successful in their efforts to comply with and report on their treaty obligations.

Similar procedures are followed in the compliance frameworks for the other main UN human rights treaties, dealing with civil and political rights, the rights of children, the rights of women, the prohibition of racial discrimination, and the prohibition of torture.

There are many courses that NGOs follow to try to reduce violations of economic, social and cultural rights through the UN and within their own countries. Several options are discussed in more detail in Chapters 9, 10 and 11.
CHAPTER 3

What Are Economic, Social and Cultural Human Rights and Who Must Ensure that They Are Implemented?

The following are recognised as economic, social and cultural rights in the International Covenant on Economic, Social and Cultural Rights and the Universal Declaration of Human Rights:

- fair and safe working conditions for workers;
- the right to seek and choose work;
- the right to form, join and act together in trade unions;
- “social security”, including government assistance during old age and in times of unemployment, and money or other help for people at other times when they need assistance in order to live their lives with dignity;
- assistance and protection for families;
- equal marriage rights for men and women;
- an adequate standard of living for everyone, involving adequate clothing, housing, and food;
- a high standard of health and health care for all;
- satisfactory primary education for all and increased opportunities for further education;
- the right to participate in the cultural life of the community; and
- the right to benefit from scientific progress.

Several UN treaties guarantee economic, social and cultural rights for specific groups. For instance, many conventions agreed to
through the International Labour Organisation (ILO) are aimed at employees and employers. Other UN treaties containing protections for economic, social and cultural rights include CEDAW, the CRC and CERD.

Advocates for Covenant rights should note that as of early 2000, all but two countries had ratified the Convention on the Rights of the Child. The CRC contains many statements that obligate States to ensure the human rights of all children, including their economic, social and cultural rights. In most cases, this would require ensuring the enjoyment of human rights by other members of a child’s family as well. As was indicated earlier, guarantees for economic, social and cultural rights are also found in agreements among countries in several regions: in the Americas (North, Central and South America and the Caribbean), the American Convention on Human Rights; in Africa, the African Charter on Human and Peoples’ Rights; and in Europe, the European Social Charter.

Under human rights treaties, governments have the final responsibility for guaranteeing that people have the opportunity to enjoy the benefits of these rights. In order for people to enjoy the benefits of economic, social and cultural rights, governments must play a positive role, yet governments are not always the direct providers of what a particular human right requires. Governments can do much to make sure that everyone enjoys adequate education and health care, for instance, even though governments do not provide all aspects of education or health care. If we consider workers’ rights, we may observe that although many economic and social rights involve employment, most people are not employed by governments. Yet governments pass the laws and often provide the inspectors to ensure safety and fair conditions for workers.

Full economic, social and cultural rights can be achieved only gradually. Resources and time may be required. To help fulfil the right to education it is necessary to hire and perhaps train teachers. Promoting the right to health necessitates trained nurses. Access to land for poor farmers is part of assuring the rights to food and to an adequate standard of living. Resources and time must be applied to remove discriminatory employment and business barriers facing women, minorities and people with disabilities. Also, since implementation of economic, social and cultural rights often costs money, it can be difficult for many low-income nations to meet all their obligations adequately at once. In wealthier countries, the problem may be that the state does not give adequate priority to economic, social and cultural rights obligations as compared with other interests and responsibilities. We should remember, however,
that many government obligations do not cost much money. Certain obligations under the Covenant can be implemented immediately, notably the obligations to respect and protect existing rights (as discussed in Chapters 5 and 6).

Although the Covenant allows States to achieve full rights gradually, it demands that States take some steps immediately, thereby setting the stage for progress. As soon as possible, States Parties to the Covenant must pass laws and launch plans and programmes, to start strengthening the enjoyment of rights. (The obligations of a State Party are examined in Chapter 7.)

As we explain in Chapter 5, a State Party is never permitted to sit still and do nothing about economic, social and cultural rights, even if the Covenant allows countries to make progress gradually. In its reports to the UN, a State Party must describe the specific plans that it has made, the legislation it has passed, and the other steps it has taken, as well as the progress it has achieved. Such information helps to prove whether the State is working hard (or not) to comply with its Covenant obligations.
CHAPTER 4

How Are Civil and Political Rights Linked to Economic, Social and Cultural Rights?

All human rights are related to each other and are important for maintaining human dignity. For example, you may want to persuade your government to provide better education for all children. The “right to education” is a social and cultural right, but to achieve it to the fullest, you must influence the government through public opinion. To persuade other people to support a campaign for better education, you will need to exercise civil and political rights such as the right to hold an opinion and to express it freely.

Looking at the situation from the other side, it is harder to possess the time and ability to participate in public discussions if you have not enjoyed adequate access to food, health, work and education. A good education and good health may help you or your children to succeed in the political arena.

To influence the decisions and actions of a government, ordinary people work together (using freedom of association), arrange meetings (exercising the freedoms of assembly and association), make statements in newspapers and on television and radio (employing freedom of expression), and vote for supportive politicians (exercising the right to free elections). The rights listed in the previous sentence are all civil and political rights found in the Universal Declaration of Human Rights (1948) and in the International Covenant on Civil and Political Rights (1976).

Civil and political rights were originally joined with economic, social and cultural rights as part of one package, the Universal Declaration of Human Rights. The two groups of rights were put into separate Covenants, but each opens with the same preamble, recognising the importance of the enjoyment of both sets of rights for everyone—so that all human beings can enjoy “freedom from fear” and “freedom from want”. Declarations are not legally binding on States, the way a treaty is; they create only a moral or political duty. Some legal scholars think that the Universal Declaration of Human Rights has a higher status, however, because of its special
and continuing place as the foundation of modern human rights law. These moral thinkers and legal scholars argue that the Universal Declaration, or parts of it, have become international “customary law”, legally binding on all countries.

A declaration that is not universally accepted, but which is often referred to in UN documents and meetings, is the Declaration on the Right to Development, adopted by a majority vote at the UN General Assembly in 1986. One element of that Declaration can add to the understanding of both civil and political rights and economic, social and cultural rights. A “right to participate” is proclaimed in Article 1, reinforced by Article 8 (2): “States should encourage popular participation in all spheres as an important factor in development and in the full realisation of all human rights”.

Human rights violations hamper the popular (or democratic) participation of activists who promote social justice and economic, social and cultural rights. Less powerful groups, which are likely to suffer the worst effects of bad economic development schemes, need to have a real voice in decision-making, and they may be the people best able to judge possible solutions. Guarantees of participatory rights are essential to enhance the welfare of women, religious, linguistic or ethnic minorities, indigenous peoples and other disadvantaged groups. Some of the worst errors in development, causing massive violations of economic, social and cultural rights, could have been avoided by paying more attention to local knowledge and opinions. Furthermore, the understanding and willing co-operation of those whom development is intended to benefit are essential for its success.

Serious damage to the environment, which can violate rights to health, food, adequate living standards and so on, is frequently accompanied by denial of access to information (a civil and political right) and by repression of activists. Suppression of timely public information and debate can lead to increased denial of the rights to life and health, caused by environmental harm. In the mid-1980s, if authorities had not kept so many details quiet in the initial stages of the tragedies at Bhopal, India (release of poisons from a chemical plant), and at Chernobyl in the former Soviet Union (radioactivity from a nuclear plant), they could have prevented countless health problems and deaths.

Working for economic, social and cultural rights can involve exposure to risks if there is inadequate protection for liberty and security of the person (a civil and political right). Danger can arise for those who challenge the plans and activities of powerful elites. For example, about a decade before the close of the 20th century, Chico Mendes was murdered for organising rubber tappers and indigenous
peoples in Brazil’s Amazon rainforest. Wangari Maathai, leader of the Greenbelt Movement in Kenya, has been detained and harassed a number of times for opposing urban schemes that were not sound for the environment. In the mid-1990s, an infamous instance of a government’s targeting of a human rights activist was the arrest and execution of Ken Saro-Wiwa by Nigerian authorities, described in the case illustration below.

4.1 Protection of Human Rights Defenders

UN human rights bodies have often praised the important role of individuals and NGOs who work alone or in association with others to promote, defend and fulfil human rights. The UN has also

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<th>4.1 Denial of Civil and Political Rights Contributes to Denial of Economic, Social and Cultural Rights / Ogoni Region of Nigeria</th>
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<td>In a country where civil and political rights are respected, it is easier to campaign for fulfilment of economic, social and cultural rights. The reverse is also true. Violations of civil and political rights can permit worsening of violations against the International Covenant on Economic, Social and Cultural Rights. In the Delta region of Nigeria, the Ogoni people have resisted destruction of their land and contamination of their waters by the national government and international oil companies. Ogoni land suffers from environmental devastation, and the Ogoni have received few benefits from decades of oil production by Shell and other firms. The Ogoni campaigned for an environmental clean-up and an end to oil pollution, and compensation for the 500,000 Ogoni people. This led to confrontation with Nigeria’s military regime and local authorities tied to the oil sector. Ogoni representatives worked to halt violations of economic, social and cultural rights that they had traditionally enjoyed, namely their rights to natural resources, to food and water and health, and to cultural and indigenous peoples’ rights. Nigeria’s military violated the civil and political rights of Ogoni representatives. The authorities denied freedom of speech to activists and subjected many to torture and unfair trials. Ken Saro-Wiwa was the leader of the Movement for the Survival of the Ogoni People (MOSOP). In 1995, after months of imprisonment, torture and refusal to allow him a lawyer, the authorities tried Saro-Wiwa unfairly, convicted him on false charges, and executed him, along with eight other Ogoni activists. A good place to find a summary of the human rights problems faced by the Ogoni is in “Excerpt from a Submission to the African Commission on Human and Peoples’ Rights”, reproduced at pp. 107-13 in Ripple in Still Water, published by the Human Rights Internship Program.</td>
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sought ways to protect these “human rights defenders”, who are often targeted by those whose abuses they expose and oppose. An important success at the UN was agreement on a set of rights for human rights workers and volunteers. In December 1998 the General Assembly adopted the “Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Protect Universally Recognised Human Rights and Fundamental Freedoms”, usually referred to as the “Declaration on Human Rights Defenders”, or the “Defenders’ Declaration”. The term “human rights defender” refers to anyone who uses peaceful methods to promote or protect the human rights of others, and includes (among others) human rights teachers, journalists who write about human rights, members and staff of human rights NGOs, and lawyers who advise or represent them. You can find the Declaration in the “Treaties” section of the UN human rights website.

The Defenders’ Declaration is an important symbol for NGOs that work for any kind of human rights, including economic, social and

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**4.2 Relationships Between Civil and Political Rights and Economic, Social and Cultural Rights: Civil Society Protests Against Megaprojects / Narmada Valley, India**

The potential risks of acting to protect Covenant rights was shown in the 1990s by the treatment of people who peacefully opposed construction of certain dams planned for the Narmada River in India. The Narmada Bachao Andolan (Movement to Save the Narmada) estimated that the Narmada Valley Project would displace more than one million people, mainly indigenous tribal groups. After thousands of protesters occupied a construction site, the state government of Madhya Pradesh promised to cease work and to review the project. Soon however, the government resumed work without a review, sent extra police into the district and declared that a gathering of four or more persons could be a criminal offence, as an “unlawful assembly”. In April 1998, around 1,500 protesters, the majority of them women, were arrested. Many were reportedly beaten and sent to hospital with injuries.

Along with other NGOs, Amnesty International distributed Urgent Action alerts, asking people around the world to send messages to the State, urging authorities to instruct law enforcement officials to abide by international standards for law enforcement and human rights. Amnesty also asked concerned persons to urge the authorities “to guarantee the right to freedom of expression and peaceful assembly, as well as the social and economic rights of those displaced or affected by the construction of the Narmada Valley Project Dams”.

The Narmada incidents have been reported in Amnesty International Urgent Action bulletins distributed throughout the world and in many bulletins and newsletters of environmental organisations.
cultural rights. The Declaration does not provide direct protection for human rights activists, but it does confirm that States have a duty to foster, not hinder, the work of human rights groups and NGOs. Debate on how the Declaration is being put into practice, as well as spotlighting continuing violations by States, takes place each year during the annual session of the UN Commission on Human Rights (CHR). In its 2000 session the CHR voted to establish a special representative of the UN Secretary General, to report on the situation of human rights defenders everywhere in the world and to advise on ways to enhance their protection.
Do “Universal” Human Rights Always Apply?
And Do they Apply Everywhere?

5.1 Do Poor Countries Have the Same Duties as Rich Countries under the Covenant?

The UN has decided that no country is too poor or undeveloped to respect, protect and fulfil human rights obligations. The fact that a country is poor is not a good excuse for it to avoid striving to ensure that everyone enjoys adequate food, health, education, housing, and so forth. The Covenant does authorise poor countries to take more time than rich ones to ensure that all of their people have access to improved social services (for example, better education and health care). A poor country is not expected immediately to ensure the same level of economic, social and cultural benefits that a rich country can afford. But even the poorest State Party is required by the Covenant to ensure that its people receive the highest level of Covenant rights that the country’s resources will permit.

The second paragraph in Article 2 of the Covenant says this:

“Each State Party . . . undertakes to take steps . . . to the maximum of its available resources . . . [to achieve] progressively the full realisation of the rights recognised in the present Covenant by all appropriate means . . .”.

Paragraph 3 of Article 2 allows a certain leeway for less developed countries regarding the “economic” rights of foreigners (such as the right to work), but does not authorise limits on their social or cultural rights: “Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognised in the present Covenant to non-nationals”.

Fuller attainment of a right may depend upon the availability of adequate financial and other resources. However, a lack of resources does not relieve a State Party of its obligation to ensure at least a
minimum level of economic, social and cultural rights for all. This view has been expressed by the UN Committee on Economic, Social and Cultural Rights, in a document called a “General Comment”. General Comments (described more fully in Chapter 10) are guides produced by the CESCR to help States Parties to understand their obligations under the Covenant more clearly. General Comment No. 3, written in 1990, is called “On the Nature of States’ Obligations”. Its purpose is to help States to understand what they must do to comply with Covenant Article 2. It explains in practical terms that the concept of progressive realisation has limits; that in spite of resource constraints, States must ensure that at least minimal levels of each of the rights are met. General Comment 3 provides several examples of these minimum state obligations—for example, primary health care and primary education.

To help decide whether a State Party’s actions or failures to act may violate Covenant obligations, one can ask at least three questions:

1. Has the State taken the necessary steps right away to achieve its minimal essential obligations? For example, the State must ensure that no one dies from hunger—a minimum requirement of the right to food—and it must halt any discrimination in the way the benefits of each Covenant right are distributed.

2. Does the State lack the ability to take immediate or progressive action because of circumstances beyond its control?

3. Or is the government simply unwilling to try to fulfil its obligations, despite having resources available that would enable it to act positively?

5.2 Are Exceptions Made for States that Suffer from War or Natural Disasters?

If a State claims that it is unable to carry out its human rights obligations for reasons beyond its control, it has a duty to prove to the UN that this claim is true. For example, if a nursing home for elderly people is closed temporarily due to earthquake damage, that action might be beyond the control of the State. But if a State cancels an entire programme that assists poor elderly people, without substituting a new one, that action provides strong evidence that the
State is unwilling to comply with its Covenant obligations. A violation of the Covenant has probably occurred.

5.3 Do Some Rights Apply in Some World Regions but Not in Others?

Some governments occasionally claim that certain human rights (often freedom of expression and freedom of association) are “foreign” and do not apply in their country or region. Rulers who make these claims may be supported by local military, business or religious elites, because denial of these rights may help all of them to maintain their power. When respect for particular democratic, legal or social rights is inconvenient for those in authority, they may argue that universal human rights are inappropriate. They might exaggerate the extent to which international human rights conflict with religious beliefs, or with national or regional “values”.

Yet at a series of world conferences organised by the UN during the 1990s involving almost every nation, all participating governments confirmed that human rights are universal, belonging to everyone, everywhere. During these global gatherings, governments from every part of the world continually promised to promote universal human rights more effectively, including those rights that are guaranteed by the Covenant. The locations and main themes of some of these Conferences were: Rio de Janeiro, Environment and Development, 1992; Vienna, Human Rights, 1993; Cairo, Population, 1994; Copenhagen, Social Development, 1995; Beijing, Women, 1995; Istanbul, Housing, 1996. These world conferences produced detailed recommendations and plans of action aimed at improving the lives of people. Some NGOs have incorporated these lists of recommendations and commitments by States into their campaigns and lobbying work.

The ways that universal human rights are applied in a country must be sensitive to regional and local cultures and traditions. Human rights law should take precedence, however, when a custom or tradition involves serious human rights violations. Examples include slavery, torture and piracy, which in the past were practised and even approved of in many cultures and countries. Customs that seriously violate the human rights of women, children, indigenous peoples or anyone else should not override universally agreed human rights.

The work of community-based human rights groups in every part of the world shows that ordinary people regard human rights as important. Values that underlie human rights can be found in virtually every culture and civilisation, religion and philosophical tradition. On the other hand, competing customary values are present in many
cultures. In some countries, a continuing dialogue may be needed, involving human rights experts and activists who want to respect and preserve religious and cultural beliefs as much as possible, but in a manner that is compatible with universal human rights.

Serious efforts should be made to apply and interpret human rights in ways that respect local customs and beliefs, so long as the efforts do not undermine or destroy the enjoyment of a right. But people can and do decide to change aspects of their own cultures. Humans like to have the freedom to choose which new ideas to adopt and to decide which aspects of tradition they wish to retain. We note that universal human rights, such as those in the Covenant, are now sought and supported by peoples from all over the world.

Because of the political climate in some countries, people advancing human rights may decide not to use the language of human rights in much of their advocacy. Many who work in development assistance programmes, for example, in the education field, in health care, or as lawyers, may instead choose words and arguments based on good development practices or on concepts of fairness and human dignity.
CHAPTER 6

Violations of the Covenant—A Quick Summary

As was said earlier, States are allowed to make gradual progress when implementing their obligations under the Covenant. But certain obligations must be met immediately, and others as soon as possible. If a State Party does not take steps when it should, it will be violating the Covenant.

Racial, religious and other kinds of discrimination, as defined in the Covenant, is never allowed. All States Parties must promote equal rights for women and men. An obligation not to discriminate is proclaimed by the Universal Declaration, which applies in all nations. That obligation to prevent and halt discrimination becomes firmer once a State ratifies the Covenant. A State is not permitted to restrict the rights of a group just because members of that group have different social, religious or cultural backgrounds than the State’s rulers or the majority of people in the country.

When trying to decide whether a State has violated the Covenant, we should recall that the Covenant allows each State a certain amount of freedom to select the methods it uses to advance Covenant rights. And a State may face unusual situations that are extremely hard to overcome, for example, sudden unpredictable floods that temporarily prevent delivery of needed social services. Members of the UN Committee on Economic, Social and Cultural Rights understand that difficult circumstances may reduce a State’s capacity to implement some rights for a while. The Committee takes such circumstances into account when it reviews the human rights record of a State and decides whether violations have occurred.

States Parties to the Covenant violate that treaty in many ways, including the following:

1. failing to take steps to protect existing rights;

2. not acting quickly to remove obstacles that prevent a right from being fulfilled;
3. failing to fulfil an obligation that the Covenant says must be honoured immediately;

4. not achieving even the minimum level of a right that would be needed by most people, when the country as a whole obviously has adequate resources available to do so. (For example, the State spends money on lavish new public buildings instead, or on more advanced computers or weapons. These expenditures are unlikely to assist people for whom even minimum essential levels of human rights have not been satisfied.)

5. limiting a right recognised in the Covenant in a way that is not permitted by the Covenant (for example, by discriminating against women or a minority);

6. deliberately slowing down or stopping gradual improvements in the enjoyment of rights;

7. cancelling or weakening laws or programmes that have helped to fulfil a Covenant right (in other words, rolling back progress that was previously achieved);

8. failing to submit information to the United Nations that is required under the Covenant.

6.1 Limitations and Exceptions that Are Permitted by the Covenant

Some kinds of limits on rights are allowed by the Covenant. As we noted above, according to Article 2 a State is required to promote and ensure provision of the rights in the Covenant up to “the maximum of its available resources”. However, Article 8, on trade union rights, permits a State to pass reasonable laws restricting certain employment rights of military, police and government personnel.

Articles 4 and 5 make it clear that States are forbidden to restrict Covenant rights unless the restrictions are intended to ensure a wider enjoyment of human rights by everyone and are legal. In our interpretation, restrictions must be reasonable, and must not be imposed at the whim of a bureaucrat, a politician, or a law enforcement official. Article 5 also says that people must not abuse their rights by using them to try to destroy or deny the human rights of others. In addition, no State is permitted to use anything in the Covenant as an excuse to deny or cancel rights that previously existed, if these rights do not conflict with Covenant rights.
CHAPTER 7

Violations of Covenant Obligations*

To gain a better understanding of violations, we could ask ourselves this: “When a State violates the Covenant, what kinds of obligations does it violate?” Several kinds of obligations are created or confirmed by the Covenant. These obligations must be met if a State wants to move toward complete implementation of human rights. In this chapter, we think about the Covenant obligations that are violated today by many countries.

7.1 Obligation to Prevent, Avoid and Halt Discrimination

A very common way that States violate the Covenant is through policies, laws, programmes or actions that discriminate against certain groups, by restricting or denying equal enjoyment or exercise of Covenant rights. Article 2 of the Covenant prohibits any discrimination on the grounds of:

- race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Article 2 forbids discrimination based on “sex”, and Article 3 reinforces the principle of equal rights for women and men:

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* The framework used here for State obligations and violations of these obligations relies on the Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights (1986) and the Maastricht Guidelines on Violations of Economic, Social and Cultural Rights (1997). The Limburg Principles and the Maastricht Guidelines were developed by international experts in economic, social and cultural rights during two meetings at the University of Limburg (now Maastricht University) in the Netherlands, approximately ten years apart. The Limburg Principles focus on the nature and scope of the obligations of States Parties to the ICESCR. The Maastricht Guidelines build on the Limburg framework by clarifying the nature and scope of ESCR violations, along with appropriate responses and remedies. Both the Limburg Principles and the Maastricht Guidelines are reproduced in Economic, Social and Cultural Rights: A Compilation of Essential Documents, published by the International Commission of Jurists in 1997. They can also be found on the AAAS website at http://shr.aaas.org/ethesaurus.
The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

Thus, countries are forbidden to discriminate unfairly among different kinds of people. This is an immediate and continuous obligation. For example, it is a violation of the Covenant if a State provides good education facilities for boys, but not for girls. It is also a violation for a State to deny food or health care to members of a group on the basis of their race, culture, religion or national origin.

Discrimination on many other bases or “grounds” is also forbidden under Article 2, even though these grounds of discrimination are not listed. Because of the open-ended words “other status” at the end of the list, a State Party is also not allowed to discriminate on the basis of an individual’s age or the fact that she or he has a physical or mental disability. In some countries, discrimination is also prohibited on the basis of an individual’s level of income, social status or sexual orientation, or the fact that a person or family receives welfare or social assistance. Other groups that commonly suffer discrimination because of their status or situation are refugees, immigrants and migrant workers (and their families). Article 2 could be interpreted to protect these groups, too.

We stressed that Article 3 of the Covenant places extra emphasis on sexual or gender equality. States Parties must ensure the equal rights of men and women to the enjoyment of all economic, social and cultural rights. For guidance when examining the ways that women and girls are discriminated against in violation of the Covenant, experts may look at the more detailed descriptions of equality that are found in CEDAW. This treaty requires the removal of every kind of discrimination against women, including discrimination that is based on social, cultural or employment customs.

7.2 Obligation to Respect Human Rights

The obligation to respect human rights requires States to avoid interfering with the enjoyment of Covenant rights. For example, the “right to housing” is violated if a government agency uses force to remove people from land or housing without following legal procedures that respect the human rights of the people being evicted. This is “an arbitrary forced eviction”. A violation also occurs if a government encourages others outside the government (for example,
7.1 The State’s Responsibility to Prevent Discrimination in Access to Services for People with Disabilities / Argentina

In 1999, an Argentine court ruled that railway services must be adapted to provide access for persons with disabilities. In recent years, many public services in Argentina, including railways, have been privatised. One of the private railway companies installed turnstiles and automatic ticket dispensing machines in all its stations. Because of their dimensions and mechanisms, the turnstiles could not be used by individuals with certain disabilities, or by people with bicycles or baby carriages. The ticket machines were also too high to be used by most people in wheelchairs. The company did not provide alternative means of access.

Although the law authorised the railways to take up to three years to adapt stations to the needs of people with disabilities, NGOs in Argentina argued that the companies must respect human rights by not making existing conditions worse during the time before the adaptation was complete. The judge ordered the railway company to provide adequate access for persons with disabilities within 60 days. A public authority, namely the National Commission for the Regulation of Transport, was ordered to provide satisfactory supervision of the changes.

The complaint was based on the national constitution and on observations made by the UN Committee on Economic, Social and Cultural Rights, in its General Comment No. 5 (1994), concerning rights of people who have disabilities. The legal proceeding was launched by an NGO called Centro de Estudios Legales y Sociales (Centre for Legal and Social Studies), or CELS, in consultation with several other NGOs: the Association of Railway Clients, the Association of Families and Victims of Transportation Accidents, and an association of people with disabilities. An individual injured party began the case. That individual (a woman with a mobility disability) represented all relevant people affected by the railway company’s actions.

This case may be of interest in any country where services or utilities (for example, water, electricity, gas, and telephone) have been privatised. One benefit of launching the railway case was that it enabled NGOs to obtain information from the railway company and from the government agency that was supposed to be monitoring the situation. This information had previously been denied to NGOs seeking it.

private companies) to use force to evict people in ways that deny their human and legal rights.

A violation of the obligation to respect economic, social and cultural rights occurs when a State adopts policies, laws or programmes that disobey or ignore the Covenant, or when State authorities act in ways that go against what is promised by the Covenant.
7.3 Obligation to Protect Human Rights

The obligation to protect human rights requires States to prevent or stop violations of Covenant rights by people or organisations who are not part of the government. A government violates its own obligations when it fails to prevent violations committed by others. For instance, a government’s failure to ensure that private employers comply with employment standards regarding safety at work may violate the “right to work” or the “right to just and favourable conditions of work”. (These rights are guaranteed by Articles 6 and 7 of the Covenant.)

A government may be violating the obligation to protect human rights if, in order to encourage business investment, it cancels laws or programmes that protect the Covenant rights of workers or unemployed people.

When large numbers of people are pushed aside to make way for a development project, the government may violate their human rights if it does not provide adequate sites for relocation of families, adequate basic services for people being re-housed, and adequate educational opportunities for the children of the community.

Even a rich State, where there is ample food for most people, might act in a way that violates its obligations to protect the right to adequate food (and the right to health). Let us assume that a certain type of imported plant, seed or food item carries a potentially great health risk for the population. The populace may not be in a position to identify which products are dangerous imports when they are sold on the local market. Examples could be food that was grown in a highly polluted area, grain or other food crops that have been genetically altered without clear proof of long-term effects of the changes, or meat that could spread diseases from animals (for example, “mad cows”) to humans. If a State does not take measures to protect its people against the importation of such items, it may be violating the right to adequate food by neglecting its “obligation to protect”.

7.4 Obligation to Take Steps Toward Fulfilment of Human Rights

The obligation to take steps requires a government to take action designed to achieve widespread fulfilment of a human right. For example, if a State takes no action to provide basic health care for people in need, the State shows no intention of trying to fulfil or implement the right to health, and therefore it violates the right. To help fulfil the right to health, for instance, important actions...
might include designing and instituting a plan for reducing the risk that mothers and children will die during childbirth. A violation of Covenant rights occurs when a State fails to take active steps that are needed to implement that right.

Article 2 of the Covenant demands that States use “all appropriate means” to promote or encourage fulfilment of rights. States Parties are specifically required to adopt “legislative measures”, that is, to pass appropriate laws. The duty to employ all appropriate methods also requires States to set up the necessary offices, procedures and educational programmes to ensure that those laws are followed. This may involve public education and personnel training for government administrators (both staff and managers). Some of the State’s budget must be set aside to finance these human rights efforts. Human rights laws need to be enforced by judges who have adequate training and sufficient court staff. Other institutions, such as human rights commissions, an ombudsman, or a parliamentary commissioner, may also be established to decide disputes involving human rights.

Human rights commissions usually focus on discrimination by governments and public agencies, as well as by private institutions and businesses, on the basis of race, sex, religion, disability or other grounds of discrimination. In many countries, these commissions also monitor compliance with other kinds of human rights, sometimes including international human rights obligations of the State. An “ombudsman” or “parliamentary commissioner” usually deals with allegations of unfairness, arbitrariness or improper procedures by government officials, rather than with discrimination or other kinds of human rights violations. In a few countries, there is also an ombudsman who deals with racial and ethnic relations and related aspects of human rights.

In Chapter 5, we observed that a State is obliged to take all possible steps toward full implementation of the Covenant, but only within the limits imposed by the State’s available resources. That flexible obligation is relevant here. The extent to which a State takes appropriate steps to implement the Covenant will depend partly on decisions made by a government concerning the priority it will give to human rights. But the ability to act may be affected by the availability of government financial and technical resources, by the presence or lack of skilled personnel with appropriate training, and by other priorities that may also involve fulfilment of human rights. Still, the question must be asked: To what extent are any shortcomings due to past and continuing neglect of Covenant obligations by the government?
7.5 Obligation to Ensure Minimum Essential Enjoyment of Human Rights

Although each State is required to use only its available resources in efforts to advance Covenant rights, every country, rich or poor, must use its available resources wisely so that it can ensure at least a minimum quality of human rights enjoyment for everyone. Ensuring wise use of what is “available” includes the notion of providing leadership for the way that resources are distributed in the wider society, not just tapping the resources that are currently available in the State treasury. The UN Committee on Economic, Social and Cultural Rights has said that violations of the Covenant occur when a State fails “to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights”. The Committee has said that this duty to ensure at least minimum satisfaction levels is “a minimum core obligation” of each State Party. If large numbers of individuals in a country suffer from hunger, lack health care, basic housing, or the most basic level of education, these circumstances provide evidence that the State may be violating the Covenant.

Denial of essential rights for a large portion of the population, which occurs even in wealthy countries, may indicate that the State is not using available resources appropriately, and is not giving enough priority to fulfilment of economic, social and cultural rights. If careful planning and approaches are employed by governments, it is possible for even low-income countries “to ensure the satisfaction of minimum essential levels” of Covenant rights. On the other hand, if a rich State ignores the priority of its Covenant obligations by not employing its resources wisely, large numbers of its citizens could be deprived of the benefits of economic, social and cultural rights. Comparisons published by the United Nations Development Programme (UNDP) in its annual Human Development Report show that in a number of poor countries, people enjoy good levels of literacy and a long average life span. Young children in a few low-income States have a better chance of surviving into adulthood than many children of minority or indigenous groups in some richer States that do not give priority to economic, social and cultural rights for everyone.

Access to adequate food for all is a goal of the right to food. The “core content” of the right to food is comprised of the obligations to respect, protect and fulfil access to food for everyone, in a non-discriminatory way. These obligations support achievement of the ideals of freedom from hunger and adequate food for everyone. When deciding whether a violation of the right to food has occurred, we should not focus on whether the State has met the ultimate target of full realisation of the right. This may never happen, and even if
it did, the results are something that cannot be measured precisely. What human rights monitors should look for is whether the State has met its obligations by taking appropriate steps toward meeting ultimate goals (as quickly as possible) and by employing its maximum available resources.

7.6 Obligation to Set and Meet Targets that Demonstrate Progress

This obligation, like the one described at 7.5, involves examining results to see whether certain goals have been achieved. There is a significant difference, however. Above, we spoke of minimum essential standards. Now we are addressing the need for a State to go beyond that minimal level. To measure and encourage progress, the State, ideally in consultation with experts (including NGO experts), should set higher targets or “benchmarks” for future results. To be truly helpful, these benchmarks would need to be appropriate for that country. They should be based on data that can be easily measured and compared. The data should indicate changes in the enjoyment of a particular Covenant right for a significant portion of the population. Examples are the proportion of girls attending primary and secondary school, the average lifespan of infants and of the general population, the number of nurses in rural areas, the proportion of youth who have some kind of fair employment, the percentage of workers in trade unions that are not state-controlled or company-controlled, and the cost and availability of housing and farmland.

The ability to assess whether a State has met its “obligation to take action” (see Chapter 7.4 above) may thus be strengthened by an obligation to set and achieve specific goals. With respect to the “right to health”, for example, a State could decide to try to reduce the death rate of mothers during childbirth to levels agreed on at UN world conferences where this issue was discussed. Agreements on approaches for encouraging and measuring reduction of the death rate of mothers during childbirth were reached, for instance, at the International Conference on Population and Development (held in Cairo in 1994) and at the Fourth World Conference on Women (held in Beijing in 1995). Measurable indicators could provide proof that in at least one important area of health care the State is trying to fulfil its obligation to realise the right to health.
7.7 How NGOs Can Help to Highlight Specific Human Rights Problems and Remedies

When assessing whether a State has fulfilled its obligations under the Covenant, NGOs and others obtain and review evidence concerning the actions taken or not taken by the State to fix apparent human rights problems. NGOs can help governments, national human rights institutions and UN bodies to find ways to remedy an identified human rights violation, by pointing to the specific parts of the government, other public agencies, and/or the wider society that are apparently responsible for the State’s failure to meet a specific economic, social or cultural rights obligation. It is also helpful if the NGO tries to identify the offices or agencies that are in a good position to remedy the violation.

Note that Annex F of this Handbook provides:

1. A list of practical questions that an NGO can use to help investigate and evaluate a State’s record of compliance with human rights obligations.

2. Advice on sources that an NGO can use to conduct its own fact-finding concerning a State’s human rights record.
CHAPTER 8

Violations of Specific Covenant Rights

This chapter lists examples of how articles of the Covenant are often violated, according to reports of the UN Committee on Economic, Social and Cultural Rights and other sources. The relevant articles are reproduced here. The full text of the Covenant is included in Annex I.

Most employment activity, as well as most social, economic and cultural activity, takes place in the private sector and in civil society. Thus, as our examples of violations show, human rights abuses are not always caused by a government’s activities or its failure to act. But governments are obligated to do something to prevent, halt or correct violations. The final responsibility for upholding human rights rests with governments.

Many human rights abuses occur because ordinary people or businesses do not know or think about human rights. Government staff and members of the public may not understand that a “normal” way of doing things might lead to infringements of the economic, social or cultural rights of someone else. Neglect of human rights, though not deliberate, can nonetheless harm a neighbour, a workmate, a family member or an entire community.

The following pages offer a few examples of the many types of possible violations of individual human rights under Articles 6 to 15 of the Covenant, as well as related group or collective rights under Articles 1, 15 and 25. Note that many violations of Covenant articles also violate articles of CEDAW and the CRC.

The illustrations given in this chapter may help readers to discover, recognise, foresee and combat similar human rights abuses. In strictly technical terms, although certain incidents and practices described below involve actions and omissions by commercial or other private interests, and are not directly attributable to a government, the State is responsible for the human rights violations. It is the State that violates the Covenant, through its failure to meet its obligations to respect, protect and fulfil Covenant rights.
Article 6 Right to Work*

1. The States Parties to the present Covenant recognise the right to work, which includes the right of everyone to the opportunity to gain his [or her] living by work which he [or she] freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realisation of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7 Right to Just and Favourable Conditions of Work

1. The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

   a. Remuneration which provides all workers, as a minimum, with:

      (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

      (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

   b. Safe and healthy working conditions;

   c. Equal opportunity for everyone to be promoted in his [or her] employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

* These titles, “Right to Work”, “Trade Union Rights”, “Right to Social Security”, etc., do not appear in the Covenant, although the articles in the Covenant are often referred to by these names. They are included here for clarity and ease of reference.
8.1 Violations of Economic, Social and Cultural Rights Often Occur at the Same Time as Violations of Civil and Political Rights

Example: Forced and Bonded Labour

When forced labour is permitted, as it is in many nations, this violates civil and political rights as well as economic and social rights. In situations of forced labour, bosses employ abuse, threats or physical force to keep workers at a place of work. A related problem is “bonded labour” of adults or children. This can involve a situation in which a person’s labour is sold to an employer for a fixed number of years, perhaps by the parents of the worker when she or he was a child. A similar abuse is “debt bondage”, in which an individual must continue to work to pay debts to the employer, but the debts keep adding up and can never be fully paid off.

While forced or bonded labour violates Articles 6 and 7 of the Covenant (and other articles), it also violates several civil and political rights proclaimed in the Universal Declaration and the ICCPR, including: right to liberty and security of the person; prohibition of slavery and involuntary servitude; prohibition of cruel, inhuman or degrading treatment; and freedom of movement. Two treaties of the International Labour Organisation (Conventions No. 29 and 105) also prohibit the use of forced labour. ILO Convention 182, Convention on the Worst Forms of Child Labour, was adopted in June 1999 and is now open for signature and ratification by States.

With respect to child labourers, note also the concluding part of paragraph 3 of Covenant Article 10:

Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Regrettably, in some countries, caution is required when reporting child labour abuses to police or to government officials. Corrupt police or officials may support the interests of owners whose businesses or farms exploit child workers. As in other situations where NGOs want to advance or protect human rights, it is often prudent to work for change through a network or coalition of national and international groups that can assist and offer protection to each other.

d. Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.
Examples of Violations of Articles 6 and 7

- Government bodies that monitor conditions of work fail consistently to condemn or to stop discrimination against women or minorities in the workplace.

- Government bodies that monitor conditions of work fail to condemn or to stop violence against workers (often women or children) in the workplace.

- Governments fail to pass laws or take other actions to encourage changes in workplaces that would help people with disabilities to find and keep a job.

- National laws or practices restrict women’s ability to work outside their homes.

- Government bodies fail to deal with dangerous conditions that threaten people at the workplace (including exposure to hazardous chemicals in factories and to agricultural pesticides on farms).

- The government does not provide enough staff and resources to inspect workplaces and to enforce legislation on industrial safety and workers’ health.

- Wages are not paid over a long period, without adequate recourse for workers.

- Legislation exempts workers in export processing zones (also called “special economic zones” or “maquiladoras”) from protections covering workers elsewhere. Workers in export processing zones often endure poor health and safety conditions and standards at work, extremely low wages and long hours, monotonous tasks, exposure to high levels of poisonous chemicals and gases, lack of safety equipment, extreme heat and noise, physical and sexual abuse, and bans on efforts to seek better conditions. (Since most export processing zone workers are women, multiple violations of several international human rights treaties—including gender discrimination—may occur at the same time).

States violate Articles 6 and 7 if they commit or permit workplace discrimination or violence against government employees. States also violate these articles if they do not pass or enforce statutes, regulations or laws to prohibit discriminatory and harmful employment
practices for employees who work for any kind of employer, public or private.

Article 8 Trade Union Rights

1. The States Parties to the present Covenant undertake to ensure:
   a. The right of everyone to form trade unions and join the trade union of his [or her] choice, subject only to the rules of the organisation concerned, for the promotion and protection of his [or her] economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
   b. The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade union organisations;
   c. The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;
   d. The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorise States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organise to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.
Summary of Important Elements of Article 8

Everyone has the right to be part of a trade union that he or she freely chooses to join, for the promotion and protection of his or her interests. Trade unions have a right to band together with other trade unions. Workers have the right to strike, that is, to refuse to work, in order to seek better wages or conditions, as long as the strike does not violate national laws. States are allowed to place reasonable restrictions on all of these rights, but only if the restrictions are clearly needed in order to protect other people’s rights. Some additional reasonable restrictions are allowed on the employment rights of people working for the police, the military, or other branches of government.

Examples of Violations of Article 8

- In the absence of legislative protection or enforcement, employers or supervisors discriminate against union members, by denying them promotion, assigning them to dangerous or low paid positions, or by subjecting union members to intimidation, racial harassment, sexual harassment, non-payment of wages, or wrongful dismissal from employment.

- The government permits union offices or property to be attacked, by its own or other agents, including damaging or seizing offices and equipment, closing or denying access to union offices, cutting telephone lines or blocking other communication links to union offices, and/or seizing union funds.

- The State allows only company-sponsored or government-controlled unions to operate.

- The government bans trade unions for all workers, or for certain groups such as civil servants, workers in export processing zones, or workers in foreign-owned, “multinational” or “transnational” corporations; or prohibits the right to strike for one or more of these groups.
Article 9 Right to Social Security

The States Parties to the present Covenant recognise the right of everyone to social security, including social insurance.

Note on Article 9

A similar right in Article 25 of the Universal Declaration, on which this Covenant right is based, gives more details of what is meant by social security: “necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood”. The financing of certain forms of social security may depend upon a mixture of State and private financial contributions. Examples are publicly funded pensions for older people, unemployment insurance and rehabilitation services or financial assistance for work-related injuries (for example, through workers’ compensation). In addition to the social security right in Article 9, social benefit programmes help to meet other human rights obligations such as the right to an adequate standard of living in Article 11 of the Covenant.

Examples of Violations of Article 9

- Legislation excludes foreign and migrant workers, street vendors, and other workers who do not have full-time jobs from social benefits and protections, such as health care services, workers’ compensation, unemployment insurance benefits, sickness benefits, special services and benefits for new mothers and infants, old age security payments or pensions, survivors’ benefits (for widows, widowers and orphaned children), and financial support for other individuals and families in need.

- Many of the social safety and security programmes listed above are not established at all by employers, despite their having the financial ability to provide them, and the government permits this.
Article 10 Right to Protection and Assistance for Families

The States Parties to the present Covenant recognise that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Examples of Violations of Article 10

- Laws and traditional practices deny women equality with regard to family rights, including the right to divorce; and marriages are arranged for women or children without their full or free consent.

- Governments fail to monitor and register cases of family (“domestic”) violence against women or children, or to ensure appropriate punishment for those convicted of violence, or to provide shelters and other protections for women and children who are victims of violence.

- Pregnant women are denied the opportunity to work or are restricted from certain kinds of work. Or, on the other hand, because of their pregnancy women suffer mistreatment and intimidation, including assignment to more difficult
or dangerous work (perhaps to try to force them to quit their jobs).

- Children born to unmarried parents are discriminated against, and the country’s laws permit this.

- The State does not provide adequate resources and procedures to monitor and enforce laws that require protection of children who work; and there is no law that says that all workers must be a minimum age before they can work.

- In places where there are large numbers of abandoned children and street children (some of whom may be child labourers), such children may be harassed by police or by civilian vigilantes, or rounded up by police and detained in adult jails.

Additional Note on Article 10

There are also family-connected rights in Articles 17 and 23 of the ICCPR that involve marriage, protection of families by

8.2 The Interests of Industry v. a Family

The Lopez-Ostra Case, Spain

In the anti-pollution case of Lopez-Ostra v. Spain, the European Court of Human Rights ruled in favour of the petitioner, Ms. Lopez-Ostra. The judges decided that there was a violation of respect for her home and for her private and family life.

An industrial plant that treated wastes from animal hide tanneries began to operate a few steps from the home of Ms. Lopez-Ostra. Fumes from the plant led to serious health problems for her. Despite her complaints, the company continued operating. Municipal and other authorities did not halt the harmful practices. Spanish courts did not support efforts by Ms. Lopez-Ostra to gain compensation. Finally, the European Court of Human Rights held that there was a breach of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, covering rights to enjoyment of respect for the home and for private and family life. The Court awarded compensation of four million pesetas to Ms. Lopez-Ostra.

The judges on the European Court said there must be a fair balancing of interests. In Ms. Lopez-Ostra’s case, they decided that there was competition between the rights of an individual person and the economic well-being of a municipality. The Court ruled that the proper balance gave priority to individual human rights.

society and the State, and protection against arbitrary or unlawful interference with privacy, family and the home. A judgment by the European Court of Human Rights, noted above, shows that courts can make interesting links among economic, social, civil, political and environmental rights.

Article 11 Right to an Adequate Standard of Living

1. The States Parties to the present Covenant recognise the right of everyone to an adequate standard of living for himself [or herself] and his [or her] family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realisation of this right, recognising to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognising the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

   a. To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilisation of natural resources;

   b. Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Summary of Important Elements of Article 11

Every individual and family has the right to an adequate and steadily improving standard of living, including adequate food, clothing and housing. States should support improved production methods and fairer distribution of food, to ensure that no one suffers from hunger.
Examples of Violations of Article 11

- Governments allow people to be forcibly evicted from their homes to make way for business development or for slum clearance and demolition.

- Governments fail to ensure that there is compensation for such people when they are evicted or relocated.

- Governments fail to ensure that people who are involuntarily removed from their homes receive replacement housing or land, and that they receive access to essential services such as water, electricity, drainage, garbage removal, and adequate educational opportunities for their children.

- A State allows people to continue to live with terrible housing, sanitary or other conditions, or to suffer from starvation, when it has resources it could use to improve these living conditions.

- Environmental legislation is not enforced when a government agency or a corporation takes steps that damage the environment and human health.

- Equal rights are not ensured for women to own, use and inherit land or other property. This can include inheritance laws that prevent widows or other female family members from gaining access to land and property, and other laws that give married women fewer rights than men in cases of divorce or separation.

- Because of discrimination, access to markets is prevented for certain groups who want to earn their living by selling items or services, and the government does not take action to remove the discriminatory barriers.

- Subsidies for basic foods such as rice or flour are cancelled by the government, without introducing a replacement programme to ensure that the poorest people can afford to buy food or can obtain it through other means.

- To make way for a mine, hydroelectric dam, shrimp farm, tourist resort or other large project, the government allows peasants, fishers, indigenous people or others to be forcibly evicted from ancestral lands, fishing areas, forests, or other places that are traditional sources of food and spiritual
inspiration. (Such actions may also violate Covenant Articles 1, 15 and 25, as described below.)

**Article 12 Right to Health**

1. The States Parties to the present Covenant recognise the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realisation of this right shall include those necessary for:

   a. The provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child;

   b. The improvement of all aspects of environmental and industrial hygiene;

   c. The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

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**8.3 Rights to Health and Food Compete with Gold Mining / Turkey**

In 1997, one of Turkey’s top courts ordered a gold mining project to stop, declaring it unconstitutional. The judges ruled that the operation violated a part of Turkey’s constitution that protects everyone’s right to a healthful, intact environment. Opposition to the mine was led by local olive growers, because clearing land for the mine required felling thousands of trees and preparatory drilling made the farmers’ water undrinkable for four months. The mining technique planned by the French firm, Eurogold, relied on the use of cyanide leaching; and the tailings (mine waste) pond would sit on an active earthquake fault line.

When the olive farmers organised a referendum on the mine, 90 percent of eligible voters in the area turned out; none voted for the project. Army tanks were sent into the area just before the court decision, but the growers responded with a peaceful demonstration of 10,000 people and 1,000 tractors. The growers thus successfully used several civil and political rights to protect economic and social rights, as well as protecting related environmental rights implied but not openly stated in several articles of the Covenant.

(The details of this case were found in 1998 on the former website of the Sierra Club Legal Defense Fund (http://www.sierraclub.org), now called the Earthjustice Legal Defense Fund. That NGO’s Web address is: www.earthjustice.org/)
8.4 Right to Health and Prevention of Disease / Argentina

Under Argentina’s constitutional system, international human rights treaties such as the International Covenant on Economic, Social and Cultural Rights are an enforceable part of national law. A decision by the Argentine Court of Appeals in 1999 requires the State to ensure that vaccine is manufactured to protect people threatened by a serious disease in one region of the country. Argentine Haemorrhagic Fever poses a danger to the 3.5 million inhabitants of the Pampas. People living in the area do not always have easy access to medical services and the disease causes death in many cases. The most effective way to combat the disease is a proven vaccine that is effective 95 percent of the time. But the vaccine is not profitable for drug companies, so no company makes it.

After reading about the predicament in newspaper articles, an Argentine NGO, CELS, launched a court proceeding based on the right to health care. A court rejected the initial case, but the Court of Appeals ruled that the State must manufacture the vaccine and gave the State a span of time in which to fulfil the obligation. The Appeals Court judges based their ruling on Article 12 of the Covenant, as well as on provisions in the American Convention on Human Rights and the Universal Declaration of Human Rights. Article 12 of the Covenant specifically covers States’ obligations to prevent and treat epidemic and endemic diseases.

The Argentine judges imposed personal responsibility on two ministers to ensure that the vaccine would be produced within the specified period. This approach reinforces the view that social rights involve legal responsibilities, and are not just political goals. The decision reaffirmed the role of the State as the guarantor of the right to health care when private interests cannot or will not provide the necessary means to prevent or cure disease. In the months following the Court of Appeals’ order, the government did provide funds and resources for a laboratory to make the vaccine, and construction was started.

d. The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Note on Article 12

An adequate supply of clean water is required in order to implement the right to health and the right to an adequate standard of living. Failure to ensure adequate supplies of safe water for drinking and other purposes violates the rights to food, health and an adequate standard of living.
Examples of Violations of Article 12

- The State fails to provide or to ensure immunisation for every child against common childhood diseases.

- The availability of health care providers such as nurses and doctors is satisfactory or good in the cities but very poor for people in rural areas, and governmental efforts to rectify the imbalance are weak or non-existent.

- Corporations and the State permit the environment to be poisoned or destroyed by harmful practices in mineral or oil production and exploration, manufacturing, forestry, fishing or farming.

- Laws and policies obstruct women’s access to full reproductive health services or attempt to control women’s sexual and reproductive behaviour by restricting their access to contraception, or by forcing them to have abortions or to be part of large sterilisation campaigns. Laws and policies that attempt to control women’s sexual and reproductive behaviour may include a requirement that a married woman receive authorisation from her spouse before she may obtain reproductive services.

- Laws permit or support medical or cultural practices that endanger health, or governments do not enforce laws prohibiting the practices.

- The government fails to take sufficient public health measures to protect against and fight infectious diseases. (Some diseases like tuberculosis and malaria are spreading again, partly because public health services have been allowed to weaken.)

- Public authorities allow people living near factories or in farming areas to be exposed to a steady stream of hazardous chemical emissions or agricultural pesticides and herbicides.

Articles 13 and 14: Right to Education

Article 13

1. The States Parties to the present Covenant recognise the right of everyone to education. They agree that education shall
be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship amongst all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognise that, with a view to achieving the full realisation of this right:

a. Primary education shall be compulsory and available free to all;

b. Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

c. Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

d. Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

e. The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct
educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant . . . undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Summary of Important Elements of Articles 13 and 14

Everyone has the right to primary education that is free of charge. As far as possible, States will also ensure that there is equal access to free high school education or to other forms of secondary education or training, and to education beyond the secondary level. Education must strengthen respect for human rights and enable everyone to participate effectively in a free society.

Examples of Violations of Articles 13 and 14

• The State fails to make primary education compulsory and available to all children, on a free basis. Note that in some countries, commitment to universal education has recently been reduced, which seems to be a clear violation of the Covenant.

• There is a failure to give equal priority to the education of girls and women, as compared with boys and men. In countries where there are separate schools for boys and girls, there is often greater investment in classrooms and other facilities for boys’ education, giving them more schools, better facilities, and a greater range of subjects to study than are available to girls. In all countries, the government should ensure that the educational system is fair to both boys and girls.
• The educational system discriminates against members of minority groups in schools and in university education.

• Education is used mainly to impose the religious or political views of the State’s dominant groups as the only “truth”, removing any teachers or instruction that allow students to hear about alternative views. (This restrictive approach also fails to respect the civil and political rights of freedom of religion and freedom of opinion.)

• There are large differences between the quality and/or availability of education offered within the regions of a country, because of discrimination based on ethnic or racial distinctions, or based on the income levels of local people, and the government does not undertake measures to rectify the situation.

• There is a failure to formulate or implement effective policies to encourage disadvantaged groups to attend school, including failure to ensure that public and private institutions provide appropriate educational programmes and opportunities for individuals who have a physical, mental, learning or medical disability.

Article 15 Right to Enjoy Cultural Life and the Benefits of Scientific Progress

1. The States Parties to the present Covenant recognise the right of everyone:

   a. To take part in cultural life;

   b. To enjoy the benefits of scientific progress and its applications;

   c. To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he [or she] is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realisation of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.
3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognise the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

**Examples of Violations of Article 15**

- In a country or in one region of a country, there is discouragement of, or bans on, the use of languages spoken by a large part of the population, whether a minority or a majority.

- The rights of scientists and artists to travel and communicate, and to exchange information and ideas across borders are unfairly restricted.

- The State bans the production, performance or importation of certain publications, plays or films that express ideas contrary to those expressed by the government or by the State-run or “official” media.

**Covenant Articles that Guarantee Group or Collective Rights**

Article 15 guarantees the individual property rights of inventors, artists and writers, so that they can benefit from the economic and cultural value of their creations and innovations. Article 15 can also be interpreted to protect the shared “intellectual property” rights or “traditional knowledge” of agricultural or other rural communities. That purpose of Article 15 can be seen when we connect it to Articles 1 and 25 of the Covenant.

**Article 1 Right of Peoples to Self-Determination**

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant . . . shall promote the realisation of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

**Article 25 Right of All Peoples to Control the Use of Their Natural Resources**

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilise fully and freely their natural wealth and resources.

**Note on Articles 1 and 25**

A violation of Article 15 rights of members of a minority community or of an indigenous group might also violate Articles 1 and 25 of the Covenant. When read together, these three articles support the recognition and preservation of traditional knowledge that has been built up over generations by minority and indigenous peoples. In a sense, this is the right of a group to benefit from its collected wisdom. This right is often not respected, as the two illustrations at the end of this chapter demonstrate.

The last sentence of Article 1(2) also guarantees a group or “collective” right: “In no case may a people be deprived of its own means of subsistence”. This sentence connects the group right of self-determination with the right of everyone to an adequate standard of living. This sentence can also be linked to Article 17 of the Universal Declaration, which proclaims property rights:

17(1) Everyone has the right to own property alone as well as in association with others.

17(2) No one shall be arbitrarily deprived of his [or her] property.
8.5 Denial of Natural Resource Rights and Cultural Rights for Indigenous Peoples / Lubicon Cree, Canada

In 1990, the UN Human Rights Committee, which monitors implementation of the ICCPR, dealt with a complaint against Canada by an indigenous group, centering on the environment and on the use and control of natural resources.

For many years, the Lubicon Lake Indian Band, located in Alberta, Canada, have complained that unwanted development activity by outside companies deprived them of their right to live a traditional way of life and to control their own resources. The Lubicon complaint to the UN in the 1980s was primarily in response to oil and gas exploration. The complaint focused on the right of self-determination, control of natural resources and the rights of a minority culture.

The Human Rights Committee said that governmental and corporate actions in Lubicon territory had not respected the Band’s rights as indigenous people. That Committee also stated that unfair historical treatment of the group, as well as recent economic development activities, threatened the life and culture of the Lubicon Band, in violation of Article 27 of the ICCPR. Article 27 guarantees the rights of minorities to their own culture, religion and language.

More details may be found through the website of the Friends of the Lubicon: http://www.tao.ca/~fol/f1Pages/daifol.htm/.

The group rights to self-determination and to control over natural resources in Article 1 include the right of “all peoples” to pursue their own economic, social and cultural development. The concept of self-determination involves being able to choose your own future as a people. This principle was important for those seeking liberation from political and economic colonialism, especially after World War II. Exercising the right to self-determination enabled peoples (usually those living in a colony) to gain or regain control over their own government, law, land and resources.

Today, the main focus of thinking on self-determination is on the right of a people to pursue significant economic, social, cultural and political activities that involve varying degrees of independence from government policies or control. States rarely support the idea of a people within their borders (usually a distinct minority or indigenous group) having a right to seek total independence.

Examples of Violations of Articles 1 and 25 AND of Article 15

- Governments fail to take adequate steps to safeguard the cultural identity of various ethnic or religious groups, including failure to prosecute or impose appropriate penalties on those
who destroy significant objects, structures or sites, including burial grounds, artifacts, and relics.

- There is inadequate State or industry recognition of the value of traditional knowledge in agriculture or medicine. Corporations are allowed to take and profit from the customary knowledge of indigenous or other groups without respecting their rights or giving them compensation.

- Land or other resources that are needed to maintain traditional forms of culture and livelihood (for instance hunting, fishing, trapping, herding, and gathering plants) are destroyed, taken or polluted by State and/or business interests. (This may also violate Article 11.)

### 8.6 Protecting the Right of a Group to Benefit from Its Traditional Knowledge

**The Seed Keepers, India**

Many international companies use “intellectual property” clauses of the World Trade Organisation to secure monopoly rights over plants and other living things. Yet countless agricultural and medicinal plants marketed today originated with farmers in the South who preserved and developed them over generations.

Those corporations that obtain patents pertaining to plants traditionally used for food and medicine can demand a fee from others who use the “new” products that the firms have “invented”. Many such patents have been obtained for plants from India, including ones related to the neem tree (a sacred tree with healing qualities, called in India “the tree of life”). Indian activists were unable to obtain prohibition of the practice of patenting traditional knowledge, so Vandana Shiva and other advocates helped to organise a citizens’ campaign to protect national heritage.*

As part of the campaign, young lawyers were trained to go into the countryside and persuade farmers to gather every kind of plant species they could find in fields, woodlands and wild spaces. The seeds have been catalogued in a “community seed register”, where they are held for the benefit of the community. Such seeds are off limits to patenting by private corporations. The registers establish prior use, so that patents cannot be obtained.

Grassroots seed-protection movements have been germinated not only in India, but in Bangladesh and in parts of Africa and Latin America as well.

*Note that in some instances, the Indian government has itself taken steps to oppose foreign patenting of traditional knowledge.

A source for further information on protection of traditional knowledge is the website of Rural Advancement Foundation International (RAFI), at http://www.rafi.ca.
• Governmental bodies permit development of tourism projects in indigenous territories without adequate coordination and without the consent of the indigenous populations, seriously damaging indigenous peoples’ culture.

• Governmental bodies offer land titles to individual members of indigenous groups when those groups traditionally take a collective approach to owning and using property and resources. For such a community, individual ownership can undermine the solidarity, rights and long-term sustainability of the group.
CHAPTER 9

How Do Non-Governmental Organisations Help to Stop Violations of Economic, Social and Cultural Rights, and Work for Their Implementation?

9.1 The Roles of NGOs—An Introduction

NGOs work to stop violations of Covenant rights in many ways and places. In this Handbook, the term “non-governmental organisations” (NGOs) includes community-based organisations, citizens’ groups (but not political parties), trade unions, religious-based social justice organisations, and other voluntary organisations that may help to foster and implement economic, social and cultural rights. Among the contributions of NGOs is their key role in providing information and expert advice to the UN Committee on Economic, Social and Cultural Rights. The tasks and procedures of the CESCR are described in Chapter 10, with information on how NGOs can participate in the CESCR’s work. Information on other UN bodies with a role in protecting ESC rights is provided in Chapter 11. Steps that NGOs can take in their own countries are discussed in the current chapter.

The CESCR monitors the progress (or backsliding) of each State Party to the Covenant. The CESCR also produces general advice on how violations occur and on how progress can be made in fulfilling Covenant obligations. Since the situation in a State is normally reviewed by the CESCR once every five years, submission of information to the CESCR is a small, albeit important part of NGO human rights activities. Some international NGOs (a few are listed in Annex E) work full time on Covenant issues, with regard to any part of the world.

Human rights ideals advocated by NGOs may contrast with views held by a government, with respect to the meaning and applicability of existing human rights principles. NGOs are often at the leading
edge of thinking on rights that are “new” or are being interpreted in a new way. In a sense, the UN recognised this fact in Article 7 of the Declaration on Human Rights Defenders, adopted in the General Assembly by consensus of all nations, in December 1998 (see Chapter 4). The Defenders’ Declaration specifically declares the right of individuals and groups to develop and discuss new human rights ideas and to advocate their acceptance.

9.2 Providing Information and Advice to Legislatures and Legislators

Within countries, community-based groups and other NGOs play an important role in promoting economic, social and cultural rights. These organisations can promote human rights by sharing information and opinions with members of legislatures (parliaments, legislative assemblies or congresses). NGOs can support and co-operate with individual politicians who share their concern for human rights. NGOs can offer advice to legislative committees that monitor human rights and social issues. By describing the rights and obligations assured in the Covenant, and comparing them to the conditions in which people actually live, NGOs can help politicians to see the need for improvements based on human rights. NGOs can try to persuade politicians in both governing and opposition parties to:

- pass laws (where needed) to ensure that international human rights law is part of the national constitution and human rights legislation in the country.

- pass laws that forbid violations of Covenant rights and promote fulfilment of Covenant obligations (for example by setting targets and measuring yearly progress toward fulfilment of Covenant rights).

- provide adequate public funding for programmes that help to implement economic, social and cultural rights (including environmental protection schemes), such as the rights to health, education, housing and food.

- set up or strengthen national institutions such as human rights commissions and ombudsmen that promote economic, social and cultural rights and enable the State to monitor violations of those rights.

- pass laws to ensure that citizens have access to a complaints procedure and to remedies (for example, through a commis-
sion, ombudsman or court) when laws dealing with economic, social and cultural rights are violated.

- take Covenant obligations into account when setting annual budgets for public expenditure, as described in the next section.

- arrange for parliamentary or congressional committees to review relevant aspects of the country’s human rights performance on a regular basis. A way to assure that attention is regularly focused on Covenant rights is to require a human rights commission or another public body to report annually to the national parliament on the status of economic, social and cultural rights in the country. During the first year of such reporting, government agencies could be required to describe their plans and goals for making progress on rights in the future. Ideally, annual government reports on compliance with economic, social and cultural rights would be made compulsory by legislation or by the country’s constitution, as is done by the 1996 Constitution of South Africa.

- teach the public about economic, social and cultural rights, and about related duties and State obligations.

When a State prepares a report for the UN describing how economic, social and cultural rights are being fulfilled, NGOs could ask that one or more committees of that State’s national legislature review the report after it has been submitted. A public review of the report by a committee of the national legislature would examine the government’s promises and actions concerning human rights, as well as any criticism from UN bodies and NGOs.

Usually a committee of a legislature or parliament has the power to summon witnesses, such as government officials, to appear before it and answer questions. Through the questions and responses, more details on the nation’s efforts to fulfil Covenant rights (or the lack of such efforts) can be revealed. This exposure could give NGOs and the general population a fuller picture of the country’s human rights situation. The information could also be shared with the CESC or other UN bodies. Even more important, the country’s national and other governments (provincial, state, territorial) may try to correct economic, social and cultural rights problems about which they become embarrassed or ashamed.

If an NGO or group of NGOs prepares an “alternative” or “parallel” report to send to the UN (the process is described in
Chapter 10), this document and the preparation process can be used to educate members of the public and politicians during the time leading up to the CESCR session, as well as after it. Public discussion might encourage other groups to become active in supplying information to the CESCR. Ideally, increased public attention might spur the government into making positive changes so that it can present a more attractive picture to the CESCR when the review takes place.

To maintain public awareness of Covenant rights, NGOs could co-operatively produce annual report cards on the performance of their country with respect to one or more rights. To have a greater impact, these reports should be shared with other NGOs, politicians and the media.

9.2.1 Government Budgets

A strategy that NGOs can adopt to strengthen implementation of economic, social and cultural rights is to urge that annual government financial plans respect the State’s obligations under the Covenant. These yearly budgets are political documents reflecting the values and priorities of those who put the plans together. Budget planners often adopt suggestions from powerful outside groups who lobby to keep their economic interests paramount. To try to achieve more balance in the concerns addressed in the budget-planning process, NGOs in some countries prepare and publicise their own “alternative” or “parallel” budgets. They attempt to demonstrate that it is possible to do responsible financial planning without neglecting rights under the Covenant or other human rights treaties, such as those that guarantee women’s rights and children’s rights.

In Canada for example, the process of preparing an “Alternative Federal Budget” began in 1994. An assembly of representatives from 40 national labour, social and environmental organisations, plus many community groups, has produced annual budgets up to the year 2000. The associated groups began this effort because they believed that the federal and other levels of government were putting too much emphasis on cutting social programmes in efforts to balance their respective budgets. The coalition contended that these budgets typically represented the concerns of the business elite, rather than the interests of the general population. Through a widespread process of consultation, the coalition has developed alternative budgets that take into account the need to decrease debt and yearly deficits, while still respecting economic, social and cultural human rights.

Typically, the Canadian Alternative Budgets have been designed to promote more job creation than the federal government’s budgets
promise to achieve. Independent expert reviews of the Alternative Budgets suggest that while respecting human rights, the budgets are also economically realistic. In 1998, the Alternative Federal Budget was reportedly endorsed by more than 150 economists, including some of the most widely respected financial analysts in Canada.*

9.3 Asking Courts, Tribunals and National Human Rights Commissions to Help Prevent and Remedy Violations of Economic, Social and Cultural Rights

When economic, social and cultural rights are guaranteed in a State’s constitution or in other laws, they can then be claimed or defended in court. Orders from judges or a human rights commission can be obtained to prevent or reverse actions that would violate ESCR obligations. It is obviously easier for courts and tribunals to recognise and support economic, social and cultural human rights if a country’s laws clearly require their implementation and fulfilment.

In some countries, there is no specific mention of economic, social and cultural rights in the legislation that establishes a national human rights commission or ombudsman office. NGOs can encourage the staff and managers of such agencies to interpret and apply their roles in ways that further economic, social and cultural rights. Ideas on national situations are found in General Comment No. 10 of the UN Committee on Economic, Social and Cultural Rights, entitled “The Role of National Human Rights Institutions in the Protection of Economic, Social and Cultural Rights”, adopted in 1998. Another source of ideas concerning how economic, social and cultural rights can and should be promoted within a country is the CESCR’s General Comment No. 9, on the Domestic Application of the Covenant, also adopted in 1998. (See Chapter 10 for more information about General Comments.)

Most countries have legal protections that fulfil part of a State’s ESCR obligations, in the fields of employment law (e.g. trade unions, working conditions), preventive/public health and health care, housing, social assistance and pensions, education, and protection for the intellectual property or creativity rights of writers, artists and inventors. It is also common for countries to forbid discrimination in the enjoyment of human rights. In many countries, economic, social and cultural rights receive a degree of protection through guarantees

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in the constitution or in a law that can override other laws, policies and programmes of governments. The strength of those guarantees varies widely from nation to nation. Some of the more extreme violations of human rights are also crimes, including those that involve slavery or killing, child and adult pornography, violence within families, and child prostitution. These forms of human rights abuse can be combatted through the use of the criminal law of a country, and through agreements between countries to fight such practices.

9.3.1 Education of the Legal Profession

When economic, social and cultural rights are part of the law of a country, politicians and judges still need to be educated concerning the importance of honouring these human rights. Even in some countries where such rights are guaranteed by the constitution, judges do not

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9.1 Using Anti-Discrimination or Pro-Equality Laws to Bolster Enjoyment of Economic, Social and Cultural Rights / The Eldridge Case, Canada

As in the rest of Canada, most medical care in British Columbia (BC) is paid for directly or indirectly through government funding. But until the Eldridge case was decided in 1997 by the Supreme Court of Canada, BC health care programmes did not routinely pay for sign language interpretation for patients who are deaf.

The individuals who launched the appeal to the Supreme Court (the appellants) were born deaf, and their preferred means of communication was sign language. They said that without the help of an interpreter, their ability to communicate with doctors and other health care providers was impaired. This barrier to communication increased the risk of receiving an incorrect diagnosis and ineffective treatment. Communication by written notes was time-consuming and impractical and in some circumstances was risky.

One appellant, Robin Eldridge, suffered from medical conditions requiring her to see doctors often, and to stay in hospital occasionally. Sign language interpretation was not available from the doctors, and was not otherwise available unless she paid for it personally. She could not afford to hire interpreters for all her medical visits.

The other appellants were John and Linda Warren. They had wanted to have an interpreter present during the birth of their twin daughters. The hospital did not have an interpreter available, and the Warrens were unable to arrange for one privately in time, because the girls were born prematurely. Linda Warren testified that in the absence of an interpreter, the birth process was difficult to understand and frightening. During the birth, there were complications for one of the newborns, but no one could explain them to Linda Warren at the time.

(Continued on next page.)
treat them seriously enough. Most lawyers and judges who advocate in favour of human rights tend to focus on civil and political rights, such as fair trials and freedom of speech. Many lawyers and judges think that rights to good health care and education for everyone are not rights at all, but merely desirable goals that depend on the generosity of the government.

NGOs can try to ensure that the training of lawyers and judges includes education about Covenant rights. This education can take place in law school, at lawyers’ and judges’ conferences, and in special “continuing education” sessions for those working as lawyers or judges.

The appellants noted that in some other Canadian provinces, the government was already funding medical interpreting services for the deaf. The appellants asked the Court to rule that British Columbia’s failure to provide interpreters as a health care benefit violated Section 15 of the Canadian Charter of Rights and Freedoms (Part I of Canada’s 1982 Constitution). Section 15 prohibits discrimination by governments and public agencies, including discrimination against people who have a disability. It also assures equal benefit and equal protection of the law for groups who have traditionally faced discrimination.

Canada’s Supreme Court judged that deaf persons were entitled to benefit equally from services offered to everyone, in this case, public health care. The Court said that effective communication is indispensable for the delivery of a medical service, and to deny it is discriminatory. When governments provide benefits to the general population, they must ensure that disadvantaged people have the resources to take full advantage of those benefits, even if the government needs to take special measures to ensure that disadvantaged groups benefit equally.

The Supreme Court declared that British Columbia had violated the Constitution, and directed the government to administer health care services in a manner consistent with the equality rights in Section 15 of the Canadian Charter. Although they ordered that the social rights of patients be fulfilled, the Justices took a common sense approach to how their ruling should be implemented. The Court’s declaration allowed the BC government to decide how it would make improvements, and gave the government six months in which to explore its options and begin implementing the new policies. (Eldridge v. British Columbia (Attorney General) [1997] 3 S.C.R. 624, can be read at http://www.web.net/ccpi/cases, the website of the Charter Committee on Poverty Issues.)
9.3.2 Laws for Equality or Against Discrimination

A country’s constitution or laws may not directly compel respect for economic, social and cultural rights, but may prohibit discrimination and require equal enjoyment of rights for men and women, or for all groups. If a State tries to provide a social programme in a way that does not ensure equal benefits for all, this approach may violate anti-discrimination or pro-equality laws. That violation can then be challenged in a court. An NGO can assist an individual or group to launch a lawsuit to make the challenge. When choosing a “test case”, it should look for a set of circumstances that would illustrate the existing injustices well, would capture the sympathy of the court and the public, and would be likely to produce a favourable result for many people if it succeeded.

A judge might order, for example, that the State take steps to grant equal access or benefits to a social programme. For the person or group previously prevented from enjoying the full benefits of the programme, the court’s decision would enhance their enjoyment of an economic, social or cultural right.

9.3.3 Environmental Protection Laws

A State would need to give serious attention to environmental issues in order to fulfil the following health rights obligations, all listed in Article 12 of the Covenant:

- the highest attainable standard of physical and mental health;
- reduction of infant mortality;
- the healthy development of the child;
- improvement of environmental and industrial hygiene;
- prevention and control of “epidemic, endemic, occupational and other diseases”.

By persuading governments or courts to strengthen environmental regulation, NGOs might be acting as a catalyst for reinforcement of the rights to health, life, food, water and/or adequate living standards. In some circumstances, protection of the environment also promotes indigenous or minority rights. The case of Lopez-Ostra v. Spain, given as an illustration under Article 10 (in Chapter 8), demonstrates that rights to protection of the family and the home could also be tied to environmental factors.
9.4 Working with Members of the Public Service

An NGO that uncovers and confronts violations of the Covenant for which a State is responsible may wish to co-operate with government officials to seek ways of overcoming the violations and enhancing implementation of human rights. Many individual civil servants may share NGO views on certain issues, although their status as government employees may prevent them from openly supporting these views. Perhaps NGO staff can work jointly with the government to agree on measurements against which the State’s performance can be compared from year to year. Or NGO experts might advise on how the State can best apply its available resources toward fulfilment of human rights. NGOs identify violations caused by State actions or neglect, and bring these to national and international attention. Yet NGO decision-makers should also be conscious of the value of remaining on friendly, or at least respectful, terms with individuals who work in their country’s public service.

9.5 Working with Members of the Media and Educating the Public

Asking courts and human rights commissions to protect specific economic, social or cultural rights could produce educational results that may influence the general population or political leaders. When a case is being argued in front of judges or a commission, NGOs can inform the media (newspapers, television, radio and Internet journalists) about the human rights problems involved, and about the local laws and international treaties that guarantee these rights. Once the court or commission makes its decision on the case, public education through the media should continue, since this is one of the rare times that the media may be interested in reporting about complex human rights issues.

The media are particularly interested in controversy. This can arise if a UN body or a well-known NGO such as Human Rights Watch criticises the human rights performance of the country. Public interest also rises if a prominent international participant on a visit to the country comments unfavourably on aspects of the country’s human rights record. NGOs can encourage and assist knowledgeable journalists from a country to be present when a UN committee or other international and national bodies ask questions of the State’s representatives concerning the country’s compliance with economic, social and cultural rights.

NGOs can share the information in this Handbook with specific journalists, editors or other media people likely to understand, spread
and make use of knowledge about these rights and procedures for monitoring State compliance.

NGOs can encourage and strengthen support for the kinds of efforts mentioned above by making sure that the general public becomes more aware of human rights. To prevent and stop human rights violations, it is important to provide education and information at the community level. For example, practices that deny rights to women, persons with a disability, or minorities cannot be adequately corrected unless people in local communities think it is appropriate and important to change. When informing the general public about human rights, it is not necessary to rely on lengthy guidebooks such as this one. In some countries, the methods used for public education on human rights include plays, television dramas, newspaper columns, comic books, dances and songs.

9.6 Working with Trade Unions

Having strong independent trade unions can be a factor in strengthening the rights of others in a society, because large organisations of workers have more power and influence than individuals who work alone or through small NGOs. The interests of workers and of human rights NGOs will occasionally conflict, but often they will be able to operate with more effect as part of a civil society network on human rights issues. Among the initiatives that human rights NGOs and trade unions can jointly promote in a country are the following: adequate resources to carry out inspection of work sites (both rural and urban) with respect to health and safety; the right to form and join trade unions and to bargain collectively for better wages, benefits and conditions; labour commissions, tribunals or courts to handle disputes related to working conditions or unions; a compulsory minimum wage that allows an adequate standard of living for workers and their families; and freedoms of expression, assembly and association for all groups participating in democratic civil society. Freedom of association is both a political/civil right for everyone and a social/economic right for workers.

In many industrialised countries, citizens are demanding that when their nations’ corporations set up operations in less developed countries or buy products from factories or farms in those countries, the corporations and their suppliers must establish and abide by codes of ethical conduct that require respect for human rights. Although a code of conduct can be a foundation for responsible business behaviour, it should not be seen as a substitute for effective organising by workers themselves to promote and protect human rights. A trade
In August 1999, two U.S. lawsuits were settled that arose from challenges to sweatshop conditions endured by garment workers on Saipan. The litigation alleged violations of U.S. laws forbidding bonded labour or “indentured servitude”, as well as international human rights law. (The laws deal with situations in which an individual is forced to continue working for a specific employer, often to pay debts that can never be fully paid off.) The suit was filed on behalf of more than 50,000 workers in Saipan who came from China, the Philippines, Bangladesh and Thailand. According to Sweatshop Watch, an NGO involved in the case, under the settlements four U.S. retailers agreed:

- to permit future monitoring of working conditions by Verité, a respected independent monitoring group;
- to establish a fund of approximately $1.25 million to finance the independent monitoring programme, give partial compensation (“damages”) to the workers, pay for public education and cover litigation costs and attorneys’ fees;
- to prohibit use of unlawful “recruitment fees”;
- to codify detailed and strict employment standards for Saipan contractors with whom the settling companies do business, including standards covering payment of overtime, provision of safe food and drinking water, and basic civil rights;
- to establish an ombudsman in Saipan;
- that oversight of the settlement will include investigations of worker complaints;
- that oversight will also include surveillance and both announced and unannounced visits to facilities;
- that the monitoring body will be empowered to cure violations of standards by requiring payment of back wages, reimbursement of illegal recruitment fees, and termination of contracts where a pattern and practice of such violations exists;
- that the monitoring body will report jointly to the retailers and to those who began the lawsuits (the “plaintiffs”) in the two settled lawsuits, including UNITE!, the Asian Law Caucus, Global Exchange and Sweatshop Watch.

Since October 1999, many more U.S. clothing manufacturers facing similar lawsuits regarding Saipan have agreed to settle out of court. For more details, see the website of Sweatshop Watch, at http://www.sweatshopwatch.org/swatch/marianas.

union can help to build employee rights over the long term and may have more power to do so than outside NGOs and monitors who come from an industrialised or “Northern” country.
A good source of information on the promotion and defence of labour rights is the International Confederation of Free Trade Unions (http://www.icftu.org). The ICFTU is a non-governmental body that prepares manuals and annual reports that cover workers’ rights comprehensively.

9.7 Other NGO Work that Directly Helps to Fulfil Economic, Social and Cultural Rights

While trying to persuade governments and business owners to improve human rights, some NGOs are directly involved in helping people to fulfil their human rights. NGOs that work for consumer or environmental protection, or that seek regulation of safety and health standards for workers are usually not thought of as human rights organisations. Yet their work certainly contributes to the realisation of economic, social and cultural rights.

For example, many NGOs assist in programmes dealing with the following, all of which are related to Covenant obligations: immunisation of children against disease; adult literacy programmes; primary school education for child labourers; housing and water projects for low-income communities; improvement of agricultural techniques in ways that sustain the environment; work with indigenous peoples seeking to protect their homelands and traditional knowledge; and support for women’s micro-lending groups.

9.8 Helping to Monitor Human Rights Violations (and Human Rights Progress) by Providing Expert Knowledge of Economic and Social Conditions

Because of their day-to-day endeavours, many NGO workers and volunteers understand the plights faced by the poor and other people who are deprived of ESC rights. They see firsthand the effects of economic and social development policies that do not respect Covenant obligations. Yet because many NGO personnel are not aware of human rights law, they do not realise that the human suffering they witness violates the State’s internationally recognised human rights obligations.

Many NGOs champion policies to improve the living conditions of the poor and less powerful, or work for environmental protection. Yet most NGOs that campaign for social justice do not use human rights language or describe injustices as violations of the Covenant or other
9.3 The Rights to Food, Health, Use of Natural Resources, and the Benefits of Science: Helping Farmers to Defend Their Traditional Knowledge Against “Biopiracy” / Australia & India

In the late 1990s, several Australian agricultural research institutions applied for “plant breeders’ rights” on two varieties of chickpeas. These legal rights would have granted a 20-year monopoly to sell the chickpea seeds to farmers throughout the world. The chickpeas had originally been freely given to the Australians by an agricultural research centre in India, from seeds developed and grown by farmers in India and Iran. If the Australians had gained ownership of the plant varieties, they would have held an exclusive right to sell them at a profit to all farmers, including the farmers who had first developed the plants.

The Rural Advancement Foundation International (RAFI), based in Winnipeg, Canada, discovered the Australians’ attempt to claim ownership of the seeds. RAFI informed the international agricultural research community, the Indian government, the media, and NGOs involved in the South Asian Network on Food, Ecology and Culture (SANFEC). SANFEC advocates food security in South Asia, pushing governments to resist the privatisation of plant resources and to recognise the rights of farmers.

RAFI works with civil society organisations and governments in many countries in the South and North. Its website carries discussion of such topics as protection of traditional knowledge rights, bio-engineering, genetically modified foods, “terminator” seeds* and many other issues that concern both environmentalists and human rights advocates. RAFI’s web address is http://www.rafi.ca.

* Such seeds have been altered to produce plants whose own seeds cannot grow into plants. To produce crops, farmers must buy new seeds every year.

human rights obligations. A few leading development NGOs such as Oxfam now promote basic rights as one of their central activities. In a worldwide campaign, Oxfam has been distributing a Charter for Basic Human Rights. This proclaims that every person has a right to enough to eat, a livelihood, an education, a safe environment, equality of opportunity, clean water, a home, health care, protection from violence and a say in the future.

NGOs that focus on viewing situations from a human rights perspective cannot always keep track of changing circumstances. Development workers and social assistance providers who work more closely with people may know the facts, but are not always aware that human rights arguments can help to create political and legal pressure for needed changes. Continuous co-operation and mutual education between both types of NGOs are essential. An NGO does not need to pursue a large number of rights issues. It is free to concentrate on only one right or the rights of only one group if it chooses.
Because of their familiarity with the economic, social and cultural contexts in their countries, many local and national organisations that are not necessarily knowledgeable about the State’s obligations under the Covenant are ideally placed to:

- identify the economic, social and cultural issues of greatest immediate concern to the people in the country;
- understand how universal human rights obligations may need to be adapted to fit particular local and national conditions;
- monitor the State’s development of policies, plans and legislation to ensure the satisfaction of Covenant obligations;
- monitor whether the State ensures the minimum essential obligations of a Covenant right, or achieves other targets that were set to demonstrate whether progress is being made in implementing particular rights;
- monitor, report on and jointly oppose violations of the Covenant, such as those that involve direct State actions or discrimination;
- help to educate the population about their Covenant rights and about other sources of related human rights;
- mobilise together at the community and national levels, in co-operation with human rights NGOs, to advocate practical steps to improve implementation of economic, social and cultural rights.

9.9 Influencing the Foreign Policy of One’s Own Country

NGOs can assist people elsewhere by encouraging their own national government to promote fulfilment of Covenant rights in other countries. A nation’s representatives can do this through the UN and other intergovernmental organisations, and in their direct dealings with other States. National governments can also be encouraged to support the strengthening of international mechanisms that promote respect for Covenant rights. Stronger international institutions that monitor all countries will be available to turn the spotlight on one’s own country if it does not comply with the Covenant or other human rights agreements. States have an obligation to protect existing Covenant rights when they negotiate international trade agreements.
But governments will often ignore this duty unless NGOs demand that the existing rights be given priority over new legal rights and powers being demanded by corporations and trade officials.*

9.10 International Consumer and Trade Union Action Against Harmful Business and Investment Practices

National laws are often designed to attract manufacturing jobs or other investment into a country from international corporations. Often this means that economic, social and cultural rights of workers, local indigenous groups or others may be denied (for example through weak anti-pollution laws or lax enforcement of adequate laws). To overcome violations linked to investment, NGOs concerned with human rights and development need to work jointly with other kinds of organisations, including consumer associations, trade unions and environmental NGOs. Help may be obtained from international NGOs that have expert staff and/or branches in several countries.

Sometimes the chief executives of a corporation are not aware of human rights abuses committed by their employees overseas. Or they may not know about discriminatory practices by other companies from which they buy products or materials. No doubt in many cases executives become more interested when they fear that bad publicity might lead to reduced sales and lost profits.

Remedies for violations of Covenant rights in one State may be found through the combined effort of NGOs in more than one country, including trade unions and environmental groups that co-operate with consumer associations. It has often been said that a major factor leading to the end of apartheid was the damage caused to South Africa’s economy and its business class through international boycotts of South African exports and international prohibition of investment in the country. Currently, many consumers refuse to buy clothing or carpets that come from factories where the rights of workers or of some groups of workers (for example, women, children or minorities) are not respected. Other consumers search for brands of coffee that guarantee that both human rights and environmental safety were respected during their production.

If enough potential customers insist that the human rights of workers and others must be respected in the production of consumer

9.4 Consumer Boycott to Protect Indigenous Rights: 
**Friends of the Lubicon v. Daishowa/Canada**

In the early 1990s, a UN body criticised Canada and its Province of Alberta for giving priority to the interests of oil companies over the rights of the Lubicon Cree indigenous group (described in the case illustration in Chapter 8, Article 25). Problems continued for the Lubicon Cree. Alberta allowed a large Japanese corporation, Daishowa, to obtain tree-cutting rights for a vast swath of what the Lubicon claimed as traditional territory. To fight back, the Lubicon formed a coalition with environmental and other NGOs. They launched a consumer boycott in Canada and Europe. Companies that were customers of Daishowa were persuaded to stop buying products from that firm. For example, one national pizza chain stopped buying its delivery boxes from Daishowa. As economic pressure started to succeed, Daishowa sued the coalition, called the Friends of the Lubicon. In long and very expensive litigation, the company asked the courts to order a halt to the boycott.

Daishowa won the case in a lower court, but the Friends of the Lubicon appealed the decision. The main issue was whether corporations could use the courts to silence debate on matters of public interest involving corporate activities. A higher court concluded that the boycott was legal, ruling that freedom of expression protects the right of a small group of consumers to tell fellow consumers why they should not buy products of a company which (in their opinion) violates human rights.

After the superior court’s judgment, Daishowa gave in and announced that it would not cut logs in the disputed area until after the Lubicon’s aboriginal land claims were settled with the Canadian and Alberta governments. As a result, the coalition suspended the boycott.

For more details, visit the website of the Friends of the Lubicon: http://www.tao.ca/~fol

products, this can put pressure on manufacturing or agricultural firms, or on countries that host their enterprises. Consumer and human rights groups, in co-operation with trade unions and other civil society organisations, have run successful campaigns putting pressure on corporations that own chains of clothing outlets. When large numbers of consumers refuse to buy goods made in sweatshops (a boycott), owners of targeted stores are placed in a difficult position. In other campaigns, consumers buy items from companies which can prove that they respect human rights (a “buycott”). Often in recent years, owners of large chains of clothing shops have insisted that the factories supplying them with goods provide better working conditions and protections for the people who make the goods.
For a consumer action against human rights abuses to succeed, good coverage must be obtained from the media, including television, newspapers, and networks of people on the World Wide Web.

It is important to give favourable publicity to corporations and producer co-operatives that honour economic, social and cultural rights. Consumers should be encouraged to purchase items from such companies, as happens in a number of campaigns supporting certain carpet labels or coffee brands. This form of positive support is at least as important as boycotts of companies that do not respect human rights. Workers and communities could suffer greatly if a badly planned campaign caused a factory or agricultural business to close or to transfer to another location, rather than improving its working conditions and respect for human rights.

In many countries consumers may purchase products endorsed by Fairtrade Labelling Organisations International (FLO International), based in Bonn, Germany. The FLO movement involves independent certification and monitoring schemes that link the interests of producers of agricultural and other goods in less developed countries with consumers in richer nations. Started in the Netherlands in 1987, fair trade labels license commercial sales of coffee beans through more than 130 brand names. Fair trade arrangements also exist for tea, cocoa, sugar, honey, bananas and craft items. These commercial arrangements promote the human rights of farmers and of people who make the craft items, usually in small, democratically run co-operatives. The slogan of one coffee marketing organisation, for example, TransFair, is “Join Our Buycott, Not Boycott”.

Opening up markets in industrialised countries by delivering good quality products that are produced in ways that respect human rights further enhances human rights, enabling the producers to achieve an adequate standard of living in their chosen livelihood. Some of the producer co-operatives are also certified as using “organic” or “sustainable” methods that are both “farmer-friendly” and “earth-friendly”.

One of the more advanced codes for linking ethical conduct with commercial goals is the international set of standards called Social Accountability 8000. SA-8000 was prepared during a long consultation process involving many kinds of organisations. Copies of the SA-8000 standards are available from the Council on Economic Priorities Accreditation Agency in New York City or London, or online at http://www.cepaa.org. A corporation subscribing to the SA-8000 standards promises to respect the principles in a long list of ILO Conventions, as well as the Universal Declaration of Human Rights and the UN Convention on the Rights of the Child.
9.11 Networking Among NGOs: Sharing Wisdom and Work

A number of globally known NGOs such as Amnesty International have established communication networks among members and other supporters, at times in alliance with other NGOs. Networking permits many groups to work on the same problem when their concerns overlap. For a long time such communication took place by telephone, telegram, and telex. It occurs increasingly via fax and electronic mail.

Frequently, human rights violations do not fit into neat, watertight containers. For example, huge development projects often threaten to damage the environment and at the same time destroy the food sources of a minority people. NGOs and allies working on each of the following categories of rights may occasionally join together to struggle with related problems: environmental rights and duties; right to food; right to clean water; land rights; minority or indigenous peoples’ rights; women’s human rights; rights of children; freedom of expression; freedom of association; freedom from arbitrary arrest; freedom from torture; and protection of human rights defenders (including grassroots activists, journalists who report problems, investigators of human rights violations, defence lawyers for arrested NGO leaders, etc.).

International action by a respected NGO with associates in other countries in the North and South can have significant influence on the way governments and others take action to protect human rights. The FoodFirst Information & Action Network (FIAN) is one such NGO that conducts “urgent action” campaigns. Although such campaigns do not always achieve full success, the FIAN case described on the next page illustrates the potential power of NGO coalitions to assist in protecting rights.

In some cases, people who peacefully question or challenge potentially harmful development plans are targetted for adverse treatment by agents of a government or a corporation involved in the planned project. Some States also crack down on those who report human rights violations nationally or to the outside world. If you or your overseas colleagues live or work in such a nation, you may want to consider a few simple precautions, such as being careful about where and how sensitive information (including lists of contacts) is written, recorded, stored, transported and transmitted. Anyone who communicates through the Internet should review the advice on Internet security included below and in Annex G.
9.5 Urgent Action: Rights of a Traditional Fishing Community / Honduras

Cayos Cochinos is a small group of islands that are part of Honduras. Fishing is the traditional livelihood of many islanders, but this way of making a living became endangered in 1993-94. A group of national and foreign businesses persuaded the Honduran government to allow them to set up a nature preserve so they could attract visitors interested in environmental tours, or “eco-tourism”. A presidential decree outlawed fishing and similar activities in the area for a minimum of five years. The decree meant the loss of livelihood for the Garifunas, a minority community (descendants of African slaves) who live on the islands. A military post was installed, and the soldiers harassed and intimidated the Garifunas.

The FoodFirst Information and Action Network (FIAN) conducted a world campaign on behalf of the Garifunas, focused on their fishing livelihood. Thanks partly to FIAN’s support, those who fished regained the right to continue fishing in their traditional ways.

Although traditional fishing continued without interference, the situation was not completely resolved. The Garifunas continued to be unable to verify their legal rights to their ancestral territories. Though the Garifunas are able to live and fish in the Cayos Cochinos area without difficulty, they are barred from obtaining documents proving their “ownership” or right to use the territories. The area was declared a “protective zone”, which does not permit ownership titles to be recorded.


9.12: Using the Internet for Human Rights Work

Widespread use of the Internet around the world has opened new possibilities for collaboration and communication among people working in human rights. Information that used to take days or weeks to exchange can now be sent cheaply, efficiently, and quickly across borders and great distances, often to many people at the same time. Internet-based tools such as electronic mail and the World Wide Web are increasingly used by human rights workers to communicate with one another and with others interested in human rights.

In addition to its value as a medium of communication, the Internet also serves as a huge library, capable of storing and easily retrieving many different kinds of data. Human rights workers have quick access to international treaties, declarations and other documents on human rights, reports about human rights violations, “urgent action alerts” published by NGOs and other organisations, and volumes of other relevant information. Because it is so huge and diverse, however, the Internet can be difficult to navigate. And
using the Internet to communicate potentially sensitive human rights information introduces complications related to protecting information and remaining anonymous when it might be risky to reveal your identity. While the risks in some countries can be substantial, human rights workers should generally not be reluctant to use Internet communication. Instead, they should seek to understand it fully and learn how to use the many tools available for securing their data, privacy and anonymity.

Some of the most important of these tools are described in Annex G.
CHAPTER  10

How Does the UN Committee on Economic, Social and Cultural Rights Monitor Implementation and Violations of the Covenant? How Can NGOs Enhance That Process?

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Overview of the Chapter

Chapter 10 differs from the other chapters in the Handbook in several important respects. For one thing, it is the longest chapter. It is also the most detailed, providing step-by-step guidance on how NGOs can participate in and contribute to the work of the CESCR in monitoring States Parties’ compliance with their Covenant obligations.

The Committee’s mandate has both a specific and a general component. The Committee reviews and issues comments on the periodic reports submitted by States Parties. It also formulates and provides general guidance to States on how to understand and comply with their obligations under the Covenant.

The Committee on Economic, Social and Cultural Rights actively solicits NGO participation in monitoring States’ compliance with the provisions of the Covenant. NGOs in a given country have an in-depth knowledge of that country’s strengths and weaknesses in realising economic, social and cultural rights, which the Committee, based in Geneva and composed of part-time members, cannot hope to duplicate by relying solely on its own resources. Nor is it wise for the Committee to accept a State’s report at face value. The independent, outside perspective brought by NGOs is an invaluable resource for the Committee.*

There are two points in the CESCR’s review process where NGO input is especially helpful. The first is in formulating the List of Issues, which is finalised six to twelve months before review of the State Party’s report, during a session called the Pre-Sessional Working Group (PSWG). The List of Issues identifies areas of concern with respect to a State’s fulfilment of its Covenant obligations and serves to structure and guide the formal review session. The second point is the formal review itself.

In interacting with the CESCR, NGOs are free to choose the nature and level of their own involvement. This can range from an action as simple as submitting a newspaper clipping, all the way to researching and writing an alternative version of the State Party’s report and/or sending a representative to the session at which CESCR members question the State’s delegation about its report.

* To explain and facilitate NGO interaction with the work of the Committee, the CESCR Secretariat has drafted an informal paper entitled “NGO Participation in the Activities of the Committee on Economic, Social and Cultural Rights”. The paper is expected to come before the CESCR for discussion and possible adoption at its November 2000 session. Some of the information in this chapter came from a draft of this informal paper.

All of these opportunities for participation are described in this chapter. Chapter 10 interweaves two main themes. The first is a description of how the Committee functions. The second provides step-by-step guidance to NGOs on how they can participate in the review process. The chapter also includes examples of the material presented, in the form of case illustrations and excerpts from some of the documents that are discussed. In addition, several checklists providing guidance on actions NGOs can take to contribute to the work of the Committee can be found in Annex F.

10.1 Introductory Notes

10.1.1 A Few Words about the Office of the United Nations High Commissioner for Human Rights

The central mandate of the United Nations High Commissioner for Human Rights is to try to ensure for everyone the enjoyment of all human rights. The Office of the High Commissioner for Human Rights (OHCHR), located in Geneva, Switzerland, has replaced and absorbed the former UN Centre for Human Rights. The Office is headed by the UN High Commissioner for Human Rights. A full description of the functions and organisation of the OHCHR can be found on its website (http://www.unhchr.ch) or may be obtained by ordinary mail. Among the tasks of the OHCHR are a duty to:

- stimulate and coordinate action for human rights throughout the UN system;
- promote universal ratification and implementation of international human rights standards;
- prepare State Party reports for review by UN bodies that monitor compliance with human rights treaties;
- follow up on decisions and recommendations taken at meetings of treaty monitoring bodies;
- provide support to human rights fact-finding and investigatory mechanisms, such as special rapporteurs, special representatives, special experts and working groups, mandated by the UN to deal with specific country situations or with particular kinds of human rights violations;
- plan and co-ordinate meetings of the various UN commissions, committees and working groups that deal with human rights;
• develop educational and informational materials on UN human rights standards and programmes and provide them to member States of the UN, NGOs, the media and others;
• manage the information services of the human rights programme, including the documentation centre and library and the human rights computer databases;
• provide advisory services and technical assistance in the field of human rights to governments;
• promote the establishment of national human rights systems and institutions;
• process communications submitted to treaty bodies concerning complaints of human rights violations;
• take action to try to prevent human rights violations;
• assist in the analysis of the voluntary reports submitted by States on the progress and steps they have taken for the realisation of the right to development;
• prepare research reports on the right to development.

10.1.2 A Few Words about the UN Committee on Economic, Social and Cultural Rights

The Committee on Economic, Social and Cultural Rights monitors the extent to which States Parties comply with the Covenant and gives guidance on how to stop violations and improve implementation of economic, social and cultural rights. Within two years after a country ratifies the Covenant, that country is supposed to send a report to the CESCER describing its progress in improving the enjoyment of Covenant rights for its people. The State Party is required to send additional reports once every five years. To assess the performance of each State Party, the CESCER examines the State’s reports, as well as information obtained from NGOs and other UN agencies.

The 18 members of the CESCER are “independent experts”. Many are former diplomats, politicians, university professors or lawyers. These individuals are chosen partly for their expertise, and partly to ensure balanced representation on the CESCER from the different regions of the world. Experts on UN committees are expected to think independently of their own countries and are not supposed to
be attached either to a government or to the UN. Some Committee members, however, are not as independent of their governments as others are; and the degree of expertise among members varies.

Generally, the CESCR has done an admirable job of trying to influence States to honour their Covenant obligations, partly by encouraging NGOs to add their knowledge to CESCR fact-finding and to help identify State Party violations. Because the UN allocates few resources to support the Committee’s work, and governments never provide a complete picture of their own failings, NGO contributions of knowledge and opinion are crucial. The CESCR actively encourages appropriate NGO participation. It is usually NGOs that discover human rights abuses, inform the CESCR about them, and push for remedies. NGOs provide most of the factual evidence of violations, many of the practical ideas for improving the promotion and defence of human rights, and continuous demands that infringements be treated seriously.

At its gatherings each year (currently in April-May and November-December) the CESCR reviews the progress of five to six States Parties in meeting their obligations under the Covenant, primarily by reviewing the State Party’s written report and questioning the State’s representatives about it in an open session. These meetings are open to NGOs. At the end of the three-week session, the CESCR issues comments on the countries it has just reviewed, called Concluding Observations (see 10.5 below). It also periodically releases interpretive documents called General Comments (see 10.8). At the beginning of the final week of a session, the CESCR hosts a Day of General Discussion (see 10.7) on one or two specific themes (for example, the right to housing). For the rest of that third week, the CESCR holds closed meetings at which it drafts its Concluding Observations for the countries it has reviewed. After the release of the Concluding Observations, which marks the end of the larger CESCR gathering, a small number of CESCR members meet as a Pre-Sessional Working Group (see 10.2), to prepare for the States Parties’ reviews that will take place six to twelve months later.

Committee members serve in a part-time capacity, and because the CESCR sessions last a total of only six weeks per year, they have little time to consider the situation in any one country. The review of each State Party is co-ordinated by one CESCR member, who gathers all the information and questions concerning the review of that State’s compliance with the Covenant. That assigned member is called the Rapporteur for that State Party. The Rapporteur usually writes the first draft of the List of Issues and the Concluding Observations for that State. During the rest of the year, the CESCR Secretariat assists
in collecting, compiling, analysing and distributing information; organising meetings; keeping records; and drafting Committee documents.

10.1.3 A Few Words about Why an NGO Might Want to Participate in the UN Committee’s Review of Its Country’s Record on Human Rights

- There are not many methods available for trying to influence the economic and social policy of a country on behalf of less powerful groups. Moreover, the methods that may be at hand (for example, courts, human rights commissions, democratic political institutions, and civil society institutions) are not strong in every country. A serious NGO should consider every legitimate option that can be used, including contributing to the CESCR’s review of its country’s compliance with its obligations under the Covenant.

- Although governments do not always yield to international moral pressure, most States like to project a positive image, and questions raised by a world body might be the extra push they need to take their human rights treaty commitments more seriously.

- Since 1993 the CESCR has openly encouraged NGO input; this input is very valuable to the workings of the Committee.

- The time involved in contributing to the procedures of the CESCR can range from a few hours to many months, depending on how much involvement the NGO chooses to undertake. Participating in the process of planning, research, mobilising resources, calling on volunteers, and drafting documents can itself prove valuable by strengthening the group, as well as showing the capabilities of the NGO. And the NGO’s computer capabilities and library facilities might be improved during the process.

- When preparing input for the CESCR, NGOs normally contact national and international institutions and other NGOs. The networks established in this way help the NGO to be more effective in its future work.

- Reports submitted to the CESCR, plus information collected by an NGO but not included in its submission, can be useful within the country for years to come, perhaps as sources of
evidence when communicating with politicians, the media or the general public about human rights progress or violations. A CESCR review of the country’s record is a good incentive for doing this research.

- Consultations carried out when drafting a submission or preparing to make an oral presentation to the CESCR include discussions among NGOs, with government officials, and with ordinary people who are harmed by violations of States’ obligations under the Covenant. Efforts to consult widely can educate groups about the existence and concerns of others.

- The step-by-step process of sending an NGO brief to the CESCR, making an oral presentation to its members in Geneva, and/or being present when government representatives are being questioned by the CESCR can be memorable. The experience is eye-opening, sometimes frustrating, and sometimes enjoyable.

10.1.4 A Few Words about NGO Preparations for the UN Committee on Economic, Social and Cultural Rights

When discussing whether to participate in a CESCR review of its country, NGO decision-makers should consider their priorities and capabilities carefully. Several matters to evaluate are provided in the NGO checklists in Annex F of this Handbook. The NGO might first find out when the next CESCR review of its country is scheduled and whether the State has submitted the required report. NGO staff would learn such practical information by contacting the CESCR Secretariat, by viewing the OHCHR website at http://www.unhchr.ch (discussed more fully in Annex D), or by asking officials at the Foreign Ministry. Before deciding to enter into a campaign centred on the CESCR, an NGO should seek advice from others who have experience with UN human rights bodies. As the checklists suggest, the NGO ought to examine many questions, such as the following:

- Does the NGO have enough human and financial resources for the extra work needed to make an impact on the CESCR’s review? The answer is probably “yes” because any NGO can have some impact, just by sending a letter to the CESCR suggesting good questions to ask the government.
• If the NGO wants to make a more substantial contribution to the CESCR’s deliberations, how will it find the required resources? Are there allies who can and should share the burden? The most effective way for an NGO to submit information to the Committee about a specific country may be to prepare a comprehensive, but not overly long, document jointly with other NGOs. This has advantages with respect to the cost of preparing the report and sending representatives to Geneva. A joint statement from several small NGOs is likely to make a stronger impact on CESCR members than a number of separate statements that are not co-ordinated.

• Are there other efforts inside the country, to which those supporting the NGO would prefer to devote energy (rather than to the CESCR process), believing that these other efforts would have surer and larger impacts on the enjoyment of economic, social and cultural rights? Examples might include seeking enforceable court orders under national legislation, organising a citizens’ campaign, strengthening trade unions, or trying to elect a political party that supports human rights. Since most NGOs will pursue a combination of activities, the real question may be: “What portion of the NGO’s resources should be allocated to a focus on the CESCR, mixed in with other priorities?”

• Does the NGO feel that it would be wise and productive to criticise the country’s government openly through CESCR procedures? If not, can useful information and questions be discreetly channelled to the CESCR through an international NGO (for example, one based in Geneva, Paris, New York or London)?

Although NGOs are welcome to attend CESCR meetings, a practical problem is that Geneva is an expensive city. The CESCR does not have money to pay the travel costs for NGOs to attend its meetings. However, NGOs based in Geneva may be able to give tips on how to reduce costs. Although it is costly to send someone to Geneva, it is advisable for at least one NGO delegate to remain there for two weeks or more during the three-week session. The CESCR gives NGOs an opportunity to make oral presentations at the start of a session, but NGOs would probably also want representation when State delegates are being questioned. It is also helpful to have someone present in Geneva for one day at the close of the session, to obtain the Committee’s Concluding Observations as soon as they
are released, but that could involve covering living costs for the entire third week. The goal of obtaining a copy of the Concluding Observations quickly can perhaps be accomplished by arranging for one individual representing a group of NGOs to remain in Geneva until they are released, or by arranging for a Geneva-based NGO to obtain the Concluding Observations and send copies to national NGOs.

Having focused on potential costs, NGOs should recall that such expenses would be incurred only once every five years, for an endeavour that could turn out to be an important stimulus for improvements in social justice in the NGO’s country. Moreover, it is quite possible for NGOs to contribute to the work of the CESCR without being physically present at the meeting.

Small NGOs do not usually have the resources needed to write a lengthy alternative report or to deliver a presentation in person to a UN Committee. To do so, most NGOs would need extra staff time and funds to gather evidence; to research, prepare, print and send a persuasive NGO report; to pay the cost of travel to Geneva for its representative(s); and to distribute information nationally concerning the UN process. Many NGOs would thus need to budget extra funds and staff time for the years when they prepare for, participate in, and report on a CESCR review. However, as we noted earlier, there are ways that even the smallest NGO (or one individual assisting an NGO) can contribute, by sending an informative letter or list of questions concerning a country to the CESCR Secretariat, or by co-ordinating its efforts with other NGOs.

10.1.5 How Difficult Is It for an NGO to Provide Information to the CESCR?

- When an NGO representative goes to Geneva to make a presentation in person, arranging to make that presentation may be easier than arranging to make a statement to a legislative committee or human rights commission in its own country, or even being a witness in court. It is also more feasible than making a speech to many other UN bodies. Neither the NGO nor the individual speaking on its behalf needs to have special status, just an invitation from the CESCR (obtained from its Secretariat). The oral presentations made by NGOs and the follow-up questions that are posed by Committee members are handled relatively informally.

- If the NGO does not feel that it has the time or the resources to send a representative to Geneva, it can submit information
ranging from a simple one-page letter all the way to a complex report. The NGO does not need to go through a formal procedure to send the information. It can simply send it by regular mail or electronic mail to the Secretariat of the CESCR in Geneva.

- Some UN and regional bodies that monitor States’ compliance with human rights treaties have strict rules that individuals and groups must follow before they can lodge complaints about human rights violations. In most cases, the international body will require that an individual first attempt to obtain a remedy for a human rights violation through human rights commissions or court procedures within a country—a process that can take many years. In contrast, complaints about violations of the Covenant can be put in a letter or report to the CESCR without having to show that available national mechanisms have already been tried.

- It is not necessary for NGOs or anyone else to obtain permission from their country’s government before providing information to the CESCR. Often, letters or reports are sent to the CESCR without the government’s knowledge that this is being done. We recommend, however, that an NGO provide a copy of its report to its State’s officials prior to the CESCR session at which the country’s human rights record is reviewed. It is better if the CESCR has an opportunity to hear both sides of the story, rather than allowing the government simply to say that it did not have time to prepare an answer to questions raised by the NGO.

Assuming that an NGO or group of NGOs decides to participate in the CESCR’s monitoring process, they will find information in sections 10.2 to 10.12 of this Handbook, and in Annex F, to assist in planning. Starting with 10.2, each section describes a stage in the CESCR’s process, including comments on how NGOs can add significant value to the Committee’s work during that stage.

10.2 The Pre-Sessional Working Group

The CESCR’s review process begins when a State Party submits its periodic report, typically one to three years before the Committee’s formal hearing on the report. The Committee will generally consider five States’ reports during each of its semi-annual sessions. Approximately six months to a year in advance, the CESCR organises
a Pre-Sessional Working Group (PSWG) to prepare for its formal review of these reports. The PSWG meets for a week immediately after the close of the regular three-week Committee session, to study the reports and decide on the additional information the CESCR should seek from each State. A Rapporteur is designated for each of the five States Parties from among the CESCR membership. The Rapporteur co-ordinates the various stages of the review process, from preparing for the PSWG, through drafting and adopting the Committee’s Concluding Observations.

The purpose of the Pre-Sessional Working Group is to ensure that the CESCR understands the main economic, social and cultural rights issues in the country, and to prepare for the formal review. The Rapporteur drafts a “List of Issues” for his or her assigned State Party, based on the State’s report and other information made available to the Committee, including information from NGOs. The PSWG discusses the draft List of Issues, may propose changes to it, and ultimately approves the final version. The List of Issues is then transmitted to the State. The State is expected to provide written answers to the questions well in advance of the formal review, to provide enough time for its replies to be translated into the Committee’s working languages (English, French, Spanish and Russian).

10.2.1 NGO Participation in the Pre-Sessional Working Group

NGOs are encouraged to participate in the Pre-Sessional Working Group and in drafting the List of Issues. NGO participation can take several forms. Possibilities include sending information to the Committee about a State Party’s implementation of the Covenant, submitting questions for the List of Issues, and making an oral presentation at the PSWG’s first meeting.

Written Submissions

An NGO wishing to submit information about a State’s implementation of ESC rights directly to the Country Rapporteur for possible inclusion in the List of Issues can obtain the name of that individual from the CESCR Secretariat. Written information should be in report form, following the outline of the Covenant on an article-by-article basis. Ideally, an NGO should include specific questions at the end of each section. Reports and suggested questions should be sent to the CESCR Secretariat well ahead of the relevant
PSWG meeting. NGOs may contact the Secretariat for additional guidance on written submissions.

Oral Presentations

An oral presentation should follow the same sequence as the articles in the Covenant and should last no more than 15 minutes. An NGO wishing to make an oral presentation at the PSWG should contact the Secretariat in advance, to allow the Secretariat to schedule the NGO appropriately and to ensure that NGO representatives receive the proper authorisation and documentation to enter the UN buildings in Geneva.

The Pre-Sessional Working Group is important in determining the shape and direction of the formal State Party review. NGOs that have participated in the PSWG, whether in person or in writing, attest to the value of the experience.

10.3 Documents Prepared for the CESCR Review of a Country’s Record

10.3(A) Government and UN Documents

List of Issues

The CESCR has adopted the practice of sending the State a List of Issues which the Committee wants addressed when it meets with representatives of the State’s government. These Lists of Issues are sent to a State several months prior to the appearance of its delegation at the CESCR session. The State is expected to provide written answers to the items in the List of Issues in advance of the scheduled review. The List of Issues contains major headings, corresponding to the major divisions in the Covenant, with related questions grouped under each heading. If the State is a federation (for example, Canada) in which important powers are held by units like provinces or states, the List of Issues may request answers not just from the federal government, but also from the provincial or state governments. The CESCR recognises that apparent violations of economic, social and cultural rights might be partly the responsibility of a province or state, although under the Covenant the national government bears ultimate responsibility for complying with the treaty.

Excerpts from recent Lists of Issues are reproduced below. They offer examples of the Committee’s concerns with respect to the
realisation of economic, social and cultural rights in various countries. As noted above, Lists of Issues are drafted after the State submits its report. Therefore, they primarily reflect concerns raised by the report. The concerns highlighted in the Lists of Issues also originate from a variety of other sources, including information and suggested questions submitted by NGOs.

10.3.1 Examples from the List of Issues

General Information

Please indicate whether the Covenant may be invoked before [State A’s] courts and whether there is any jurisprudence at the national or State level in this respect.

Please indicate if the Government of [State A] has acted on the Committee’s concluding observations on the second periodic report of [State A].

Please explain what the Government’s position is with respect to approval of an optional protocol to the International Covenant on Economic, Social and Cultural Rights.

To what extent have non-governmental organisations participated in the preparation of the report?

Issues Relating to the General Provisions of the Covenant (arts. 1-5)

Article 3. Equality of Men and Women

Please indicate whether, in conformity with . . . the Constitution, men and women have fully achieved equal rights under civil, family, commercial, labour and criminal law in [State B].

Please indicate the measures taken by the State party to ensure that there is no disparity between the minimum age for marriage of men and women. Please inform if there are any differences in other provisions of the Law (administration of community property, exercise of parental authority, access to credit, etc. by married women without need for their husband’s consent) between men and women.
Please provide information on the proportion of women in positions of responsibility and decision-making positions in the public sector (for example, politics, national and provincial administration, Congress and the Senate, the judiciary, international representation) and the private sector (executive posts in firms, in scientific research, etc.) in the past five years, including appropriate statistics and indicators.

Issues Relating to Specific Provisions of the Covenant (arts. 6-15)

Article 8: Trade Union Rights

Please provide information on the number and types of labour unions in [State C].

The Committee would like to be provided with detailed information on the right of public employees to organise.

Please provide information on the number of legal and illegal strikes during the last five years. In addition, please indicate what steps have been taken by the Government of [State C] in response to the observations on ILO Labour Convention No. 105 on the Abolition of Forced Labour made in 1997 by the ILO Committee of Experts.

Article 10: Protection of the family, mothers and children

Does [State A] law recognise common-law marriage on the same terms as legal marriage, in particular with regard to the right of the woman and any children of the union?

Can the State Party indicate whether the recommendations, if any, of the National Human Rights Commission regarding improved protection of the rights of women and children have been implemented?

Apart from cultural patterns that militate against equal treatment for women, what are the chief causes of violence against women and children in the home? Please provide statistical information in this respect.

What are the corrective measures taken by the State party to tackle the problem of abandoned children, street children, children belonging to minorities and indigenous populations, children living in difficult circumstances, illegally employed
children, and children who are denied protection under the Covenant and are prone to criminality, drug addiction and sexual exploitation?

What measures have been taken to control prostitution and to prevent forced prostitution and exploitation of women?

**Article 12: The right to physical and mental health**

Please indicate the latest percentage of GNP, as well as of the national budget, allocated to health care and the percentage of these resources allocated to primary health care over the past five years.

Insufficient reference is made in the report to sexually transmitted diseases, such as HIV/AIDS. Could the State kindly provide information on the actual situation of these diseases in [State D]?

Please provide information on the effective results of the efforts, mentioned in paragraph [x] of the report, to develop and implement projects on local community-based health care services, jointly financed by the State and the local community.

Could the Government please provide information on the actual situation of mental health, the estimated number of the mentally ill and how, and by whom, they are cared for?

**Articles 13 and 14: The Right to education**

Please provide further details on the situation in those regions referred to in paragraph [y] of the report where school attendance is low.

Please state the main reasons for the school drop-out rate.

Please describe the results of the Government’s campaign to overcome prejudices against the practice of certain occupations referred to in paragraph [z] of the report.

Please describe the importance attached to human rights teaching within the [State C] education system and, in this regard in the training of teachers, members of the armed forces.
forces, judges and other public servants.

The Committee would appreciate being provided with statistics on higher education, disaggregated by gender and by academic discipline.

Please state whether there is a plan of action for the implementation of the principle of compulsory and free education for all, as set forth in articles 13 and 14 of the Covenant.

The State Party’s Periodic Report

A new “periodic report” to the CESCR is due every five years, covering the period since the previous report. Ideally, the reports follow guidelines published by the CESCR in its General Comments (see 10.8 below). These guidelines require each State to describe progress achieved toward fulfilment of Covenant rights, such as new legislation and social programmes, elimination of discrimination, or successful court cases. The State is also supposed to reveal problems that have not been resolved, and how it plans to address them. A few States have been very conscientious about giving detailed data on developments since their last report was submitted, even mentioning their shortfalls in meeting obligations. Most, however, submit slim, vague documents. States may also submit thick documents that do not answer central questions, nor reveal evidence that Covenant violations may have occurred.

The tasks of preparing and reading reports are made easier by a requirement that each State file a Core Document containing general information about the country. The Core Document provides background information for the use of the UN human rights treaty bodies, but this information can be useful to any interested party. It contains data on the country’s population, legal and political systems, economic and social structure, income levels, and so on. Since this core information is on file for everyone’s use, it does not need to be repeated or summarised in every report to a UN body. When necessary, a State’s periodic report to the CESCR gives a cross-reference to paragraphs in its Core Document that contain pertinent data, perhaps indicating significant changes during the preceding five years.

In a few countries, governments consult with NGOs during the months that the State’s periodic report is being prepared. The government may officially launch its report, distribute it adequately so that the public and politicians can see it, and arrange public discussion
of it, but this would be very rare. Such consultation is commendable, as it encourages public participation in discussion of Covenant rights and obligations. To fortify their independence from the State, NGOs should not offer to give advance approval to the report before it is sent to the UN. This approach leaves an NGO freer to question the facts or opinions in the government’s report when it prepares its own written submissions to the CESCR. Assessing contrasting points of view helps CESCR members to decide for themselves which version of the facts seems more accurate, and whether any data have been left out of a State’s report or written in a vague way to avoid revealing violations.

NGOs can distribute the government report more widely on their own, and accompany it with comments concerning what they think the report masks or leaves out.

_Last-Minute Documents that Update the Periodic Report_

The formal review by the CESCR of a State’s periodic report may occur a year or more after that State submits it to the UN. Closer to the time of its meeting with the CESCR, the State will often provide updated data in supplementary documents.

10.3(B) NGO Participation and Submission of Documents

_Information for the Country Profile_

Between submission of the State’s report and its review by the CESCR, NGOs are welcome to submit relevant information to the CESCR Secretariat from a wide variety of sources, including newspaper clippings, or newsletters and reports from the NGO or other organisations. The Secretariat includes this information in the country file it maintains for each State. The country file contains information about the country from all sources, not just NGOs. Based on information in the country file, the Secretariat prepares a Country Profile on the Committee for each State coming up for review, which complements the State’s report and provides a context for it.

The CESCR Secretariat will often take the initiative to contact NGOs located in the States scheduled for review, and invite them to contribute relevant information and suggestions. The CESCR and its Secretariat are short-staffed and cannot know the situation in a particular country as well as the NGOs based there. Supplying background information about the enjoyment of ESC rights in a
particular country is a valuable contribution that NGOs can make to the review process.

The CESCR reviews NGO submissions closely, treating them with respect. An infraction committed by many States is failing to provide the kind of report to the UN that is required by the Covenant. When a State supplies no report, or one that is vague and uninformative, or does not respond well to a request for more data, the Committee will need to rely more than usual on information from NGOs to obtain a more accurate picture. Using NGO reports, along with data on the country obtained from UN agencies and other sources, the CESCR will form an opinion about a State’s human rights record, even if the State does not co-operate fully in the process.

An NGO does not need to report on a large number of issues. It is free to discuss one right (for example, the right to health) or even one aspect of a right (for example, the right of girls to obtain a primary school education). The NGO can choose both the degree and focus of its own involvement when it provides input to the CESCR. There may also be international NGOs with special knowledge concerning the right that the local NGO wishes to highlight, which can provide assistance. A list of NGOs active in various aspects of economic, social and cultural rights, along with contact information and descriptions of their work, is provided in Annex E.

NGOs and the List of Issues

An NGO can strongly influence the questions that the CESCR asks a country’s government about performance of Covenant obligations, merely by sending a well-prepared cluster of suggested issues and questions to the CESCR. National and community NGOs know more about the daily lives of people and the actions of their governments than members of the CESCR have time to learn. A group of NGOs and advisors are in a good position to prepare their own joint List of Issues and related questions.

As described earlier in this chapter, the NGO can propose issues and questions during the Pre-Sessional Working Group meeting that discusses the upcoming review of the State’s report. If this is not feasible, it can send a list of questions to the CESCR Secretariat after the PSWG meeting.

CESCR members are not under an obligation to adopt an issue or question proposed by an NGO, but they welcome ideas and concrete suggestions, based on reliable information, to help them examine reports more effectively. The Committee’s List of Issues and related questions for a State Party will often include questions suggested in NGO documents. To enable the CESCR to judge whether an issue
or question is worth exploring with a State Party, the NGO should supply background data showing why the matters are important and reasonable to examine. Excerpts from recent lists of issues were presented earlier in this chapter. Lists of Issues can also be found on the UN human rights website.

Shorter NGO Input to the CESCR: Letters and Suggested Questions

Shorter NGO briefs that do not amount to a full report or reports from other sources still provide valuable insights to the CESCR, by pointing to gaps or misleading data in a State’s periodic report. As indicated above, an NGO’s response to a periodic report could be as uncomplicated as a letter to the Committee, proposing key questions that the government should answer to fill gaps in its report. Such a communication can be sent by regular mail, fax or e-mail to the CESCR Secretariat. It is essential for NGOs to provide accurate information to the CESCR. If certain data prove to be exaggerated or false, the error can be used to discredit other information that is accurate and presented fairly.

A slightly larger, but still non-complex package of evidence could be a letter enclosing photocopies of relevant newspaper articles, government press releases and NGO newsletters.

An NGO may submit a written statement to the CESCR about its State’s periodic report. It should be 2,000 words or less. It is translated into the Committee’s working languages and is published as an official UN document. The NGO should submit it to the CESCR Secretariat at least three months in advance of the CESCR session to provide time for translation. The written statement should be co-sponsored by at least one NGO having consultative status with ECOSOC.*

A relevant document sent by an NGO to the CESCR will usually be copied and distributed among CESCR members. When an NGO has special consultative status with ECOSOC, its alternative reports or other documents submitted to the CESCR can be distributed more widely, as if they were official UN documents. Several such NGO reports on countries are now posted on the OHCHR website.

The NGO should send its government a copy of any discussion document that it gives to the CESCR. This step serves mainly as a

* The 54 members of the United Nations Economic and Social Council (ECOSOC) are elected by the General Assembly from among the official State delegations to the UN. Through its Committee on NGOs, ECOSOC accredits non-governmental organisations, giving them “consultative status”. Consultative status gives NGOs the right to participate in certain UN activities, for example, attending meetings or submitting documents for UN consideration.
courtesy; the CESCR Secretariat provides the State with copies of the written submissions it receives. It is also advisable to send evidence to the CESCR showing that the NGO has provided this information to the government (for example, a copy of the letter that accompanied the document sent to the State). This evidence would make it more difficult for a State’s spokesperson to avoid answering a question later by claiming that it had no opportunity to prepare an answer on a matter, or that the question was an unfair surprise.

We have mentioned that the review of each report is guided by one CESCR member—the Rapporteur for that State—who collects and organises information and suggested questions concerning that State’s periodic report. To convey information to the CESCR, a good approach is to send it to the CESCR Secretariat staff, with a copy to the Rapporteur.

**Write a Summary!**

It is not safe to assume that CESCR members will read all documents that NGOs send to the Committee. To increase the chances that CESCR members understand the key points, it is important to provide a short summary to accompany any long report from the NGO. If resources permit, the NGO should make sure the translation of the summary is available in English, Spanish and French.

**More Complex NGO Submissions—Alternative Reports**

An NGO or group of NGOs can send a detailed report that mirrors the State’s report—and shines new light on it.

The formal review of a State’s periodic report may occur more than a year after the State submits it to the CESCR. That gives an NGO plenty of time to react to the contents (or gaps) in the report. In many cases, the periodic report from the State will be added to the UN’s human rights website. Anyone can then read it several months before the review takes place. The NGO also will want to examine older State Party reports and make comparisons.

Another source for NGO research is the CESCR’s List of Issues for a State. The List of Issues can be read by anyone with Internet access. An NGO can use the List as one guide for the information and opinions that it presents in its submission to the CESCR.

When governments take backward or “retrogressive” steps instead of working for progress in human rights, proof of retrogression may be present in earlier periodic reports from the same State. A government always wants to “put on a good face”. It is normal for a State’s
periodic report to boast about laws, policies and programmes that are positive for human rights. If one of these is cancelled prior to the next Covenant review of the country, without establishing a suitable replacement, the NGO’s report can quote an earlier State report to show that the State once believed that the discarded law, policy or programme was worthwhile.

An alternative report (also called a “parallel” or “shadow” report) can help educate the media, the public and politicians both before the CESCR session and after it. Greater public awareness might encourage other NGOs to provide input to the CESCR. Public debate might also influence the government to improve its level of compliance with the Covenant, in advance of the CESCR session.

Advice on the framework and style of periodic reports is found in the “Revised general guidelines regarding the form and contents of reports to be submitted by states parties” under the Covenant, published 17 June 1991 as UN document E/C.12/1991/1. Copies may be obtained from the CESC Secretariat.

Last-Minute Update Documents from NGOs

Shortly before the session at which its report is reviewed, a State will often provide updated information. If a long time has elapsed since the NGO’s submission went to the CESCR, or if new violations have come to light in the country, the NGO should submit a supplementary letter or brief just prior to the session.

Tips on Preparing and Submitting NGO Documents

Sending the NGO’s report to the CESCR Secretariat well in advance of the meeting increases the chance that more CESCR members will have time to read it before the session. If a document in only one language is sent to the CESCR at least three months before a session, UN staff may have time to translate it into the Committee’s four working languages (English, French, Spanish and Russian) and make copies available to the Committee. If it is feasible, it is more reliable for an NGO to arrange for its own translation of its principal documents, and submit the translated versions to the UN, either at the same time as the original version or some weeks later. Most people, including CESCR members, prefer to read in their first or second language. Therefore, it is preferable that any NGO brief or letter be in English (the most commonly used language in UN circles) and perhaps in French or Spanish, especially if either is the first language of the Rapporteur responsible for the review of the NGO’s country.
10.1 NGO Input to the CESCR / Canada

In 1993 the CESCR was contacted by Canadian NGOs concerned about the rights of poor, homeless and indigenous persons, as well as with the spread of poverty. The CESCR took the (then) unusual step of allowing the NGOs to make an oral presentation to supplement their written submissions. The CESCR concluded that Canada was not respecting the Covenant, and made several recommendations for improvement.

The NGOs lodged new complaints in 1996-97, asking the CESCR to intervene without waiting for Canada’s next report, claiming that contrary to CESCR advice, Canada had cut funding to its provinces for welfare and health. Many provinces also chopped their own funds for welfare, education and health care. Canada cancelled the Canada Assistance Plan (CAP), which had required provinces to guarantee minimum support levels and rights for recipients of social assistance; Canada had expressed pride about CAP in past reports to the UN. Because rolling back gains in human rights violates the Covenant, the CESCR communicated concern to Canada without awaiting its next report, due in 1997.

A few Canadian NGOs met with the CESCR’s Pre-Sessional Working Group in May 1998 to discuss the CESCR’s review of the report, which was scheduled for November 1998. At the PSWG, and in letters and e-mail messages, the NGOs proposed questions for the CESCR to present to Canada. The CESCR was not obliged to adopt any of them, but the List of Issues sent to Canada contained many ideas suggested by the NGOs. The List of Issues also asked provincial governments for specific information concerning their actions.

Canadian NGOs submitted parallel reports to the CESCR, detailing the ways that Canada appeared to be violating the Covenant. Some of the NGO reports are available on the UN human rights website, or on a Canadian NGO website (http://www.web.net/ccpi), along with much other related information.

Concluding Observations on Canada (November 1998) are published in the CESCR’s reports on Session 19, as well as on the UN’s human rights website. They chide Canada and its provinces for not following previous CESCR guidance. The Committee found that Canada’s cuts to social spending, intended to reduce budget deficits, had not paid enough heed to their negative effect on the enjoyment of human rights (such as food, clothing, housing, education and health), especially for vulnerable groups. Policies at federal, provincial and territorial levels had managed to worsen poverty and homelessness during a time when there was general economic growth in Canada. The CESCR did note some positive developments, including new efforts by Canada to redress problems for indigenous peoples.

If possible, an NGO should submit its documents on a computer diskette or in CD-ROM, in a commonly used word processing package. This courteous step may make it easier for the CESCR Secretariat to share information with Committee members. Moreover, someone writing a draft document for the CESCR may decide to refer to certain statements or ideas from an NGO document; having the material in an electronic format would simplify the process. There could be a bonus for an NGO that prepares a report of high quality in an electronic version; a few NGO reports to the CESCR are posted on the UN’s human rights website.

**Obtaining Documents Prepared for CESCR Sessions**

An increasing number of relevant documents can be read or downloaded at the UN’s human rights website, or obtained from NGO sources by similar Internet means. Obtaining UN documents by mail may take more than one inquiry. It can take a long time, and sometimes the UN charges a fee. All participating governments and a few major libraries in many countries receive copies of the CESCR’s reports and annexed documents. Addresses for obtaining documents by mail from the UN are provided in Annex C. At CESCR sessions, printed versions of reports prepared by States parties, by the CESCR itself and by NGOs are on display in the Committee’s working languages and can be obtained free of charge.

**10.4 Oral Questioning of Government Delegates at a CESCR Meeting**

**10.4.1 General Notes on CESCR Meetings**

Most meetings during the first two weeks of a session are open to observers, although the conference space is relatively small. UN simultaneous interpreters are available to translate anything spoken into the four working languages of the Committee, English, French, Russian and Spanish.

**10.4.2 Questioning of a State’s Delegation by CESCR Members**

State representatives are required to meet with the CESCR face-to-face as part of the review of their country’s report. At the start of the formal meeting between the Committee and representatives of
the government, the head of the delegation will often make a short presentation. This will generally express views about the importance of human rights and the good record that the State has. The main specific submissions of the State are its periodic report and perhaps a supplementary document conveyed shortly before the session. The State is usually represented by an ambassador or other high-level diplomat, who is supported by expert representatives from the relevant ministries, such as social affairs, justice, health, education and foreign affairs.

After a State’s delegation presents its opening speech, CESCR members may ask questions from the List of Issues prepared during the Pre-Sessional Working Group or any other questions. The verbal exchanges can lead to discomfort if the State’s delegation is not well prepared, if it seems that the country has submitted a misleading report, or if strong evidence is discovered pointing to violations of the Covenant. Most often, any detailed evidence of violations is supplied by NGOs, rather than in the government’s written or verbal reporting to the UN.

The CESCR will normally devote parts of three meetings to interacting with a State’s delegation during the three-week session. This practice enables the CESCR to ask government delegates to return, generally the next day, with fuller answers to questions, to reply to follow-up questions (some of which might be suggested by NGOs), or to respond to questions that the government has completely avoided answering. After that, if the CESCR is still not satisfied with the responses to its follow-up inquiries, it will often demand that the government contact it in the months following the session, with written replies to the unanswered queries.

10.4.3 NGO Participation in the CESCR Session

NGO Oral Presentations During a CESCR Session

The CESCR gives NGOs an opportunity to make oral presentations on the first day of the Committee’s session. The meeting is open and interpretation services are provided. An NGO representative may choose simply to summarise the information in its written submissions, but it is free to bring up any relevant issue. It is useful to suggest specific questions that CESCR members may want to ask during the formal review of a State’s report. Each speaker has approximately fifteen minutes to address the CESCR and answer questions. State representatives are not present for this discussion. NGOs wishing to make an oral statement at this session should notify the CESCR
Secretariat in advance, so that the Secretariat can make the necessary arrangements.

We stress that, if possible, the NGO should arrive in Geneva with copies of its report, or at least a summary of the main points, in English, French and Spanish. Copies of the NGO’s speaking notes can be distributed on the day of the CESCR meeting to the interpreters in their booths beside the hearing room. It is recommended that copies be handed out well in advance on the day of the oral presentation. This makes the interpreters’ task easier.

An innovation in November 1998 was the showing of a video to the CESCR, on violations of the right to housing in Canada. NGOs had previously prepared videos for the UN’s Human Rights Committee, which monitors civil and political rights.

Magic Lantern, a group based in India, has prepared a 90-minute video on behalf of the International Human Rights Internship Program (IHRIP). The video highlights how NGOs promote economic, social and cultural rights in their own countries and at the CESCR. NGO activities were recorded in Argentina and Canada, which both came up for review before the Committee recently, and in Geneva during the CESCR meeting of November-December 1999. The producers’ purpose is to convey an understanding of the role, functions, limitations and potential of the CESCR, as well as to document what human rights activism can accomplish. The video, along with a manual on ESCR being developed by the IHRIP, will be used for NGO training. Magic Lantern’s web address is http://www.magic-lantern.org/.

Helping the CESCR to Get Answers to the Right Questions

Questions posed by the CESCR to the government will be based loosely on the List of Issues distributed months ahead of the session. But the exact oral questions are not known in advance, and CESCR members are free to ask what they wish. NGOs may be able to influence what the State delegation must explain to CESCR members, by supplying the Committee with suggested questions ahead of the session and in their oral presentations, along with background information on probable violations. NGO questions tend to focus on States’ failures to honour Covenant obligations—problems that the State would prefer to avoid talking about.

NGO representatives are not permitted to pose their own questions during a CESCR meeting with government representatives. However, they may remain in the Conference room during the review to observe the proceedings. NGO delegates often speak with CESCR members during breaks in the session or hand documents to them at
appropriate times. NGO delegations should take complete notes of what government representatives say, and keep track of any questions that are not clearly answered. They can then politely point out any gaps or discrepancies to CESCR members during a break in the proceedings. In a brief chat with a CESCR member an NGO representative can clarify major concerns in a few words.

We have noted the wisdom of paying special attention to the CESCR member who is the assigned Rapporteur for the State being reviewed. By reading Summary Reports of past CESCR sessions and asking questions in UN corridors, an NGO representative can try to learn the particular interests of individual CESCR members. The representative can then prepare specific questions to give to individual members, according to their interests and expertise, at appropriate breaks in the formal session.

*Interacting with Media Personnel During the Session*

Unless national or grassroots NGOs make special efforts to publicise the CESCR event and its outcomes, people back home will not learn about opinions that the CESCR expresses on possible human rights violations. NGOs can give copies of parallel reports to journalists. It is clearly helpful if media staff are present when NGO speakers make their oral presentations to the CESCR.

Even more impact can be achieved, however, if NGOs can persuade journalists from their nation’s newspaper, radio, and television outlets to be present when the government’s representatives are being questioned by the CESCR. A journalist may observe directly whether the Committee members are happy with the country’s human rights record, or if the government delegation tries to avoid disclosing embarrassing facts. Such direct observation can be educational for the journalist, and it provides a better basis for a media story.

NGOs should start early to try to gain the interest of local journalists concerning the CESCR review of the State’s record. If possible, NGO representatives should get to know individual journalists who might be willing to follow the story through its various stages until after the CESCR has reviewed the report and published its Concluding Observations.

**10.5 CESCR Concluding Observations**

During the last week of a session, the CESCR releases its Concluding Observations to the State Party concerned. The Concluding Observations are drafted in closed meetings, which are not
open to NGOs or States. The Committee’s Concluding Observations are translated and published in all six official UN languages: English, French, Spanish, Russian, Arabic and Chinese. The Concluding Observations are published in print versions and are also posted on the OHCHR website (refer to Annex D for information on how to navigate this website.) The core of the Concluding Observations is the opinion of the CESCR regarding the periodic report of the State Party and the State’s performance over the preceding five years.

If a State is not making appropriate efforts to ensure that a particular Covenant right is enjoyed by everyone, at least to a minimum degree, the State is committing a violation of the Covenant. The CESCR’s Concluding Observations will reflect this, although usually in polite terms. The CESCR does not normally use the word “violations”. Instead, it may refer to “concerns” that it has about particular situations in a country, or about how the State is dealing with them, and may then give recommendations on how to remedy these concerns.

When States do not respect and implement the Covenant voluntarily, the CESCR can employ only persuasive strategies. It does so in its Concluding Observations by praising States that appear to be making sincere efforts to comply with Covenant obligations. The CESCR generally finds something to compliment even when a State has an abysmal record. Indeed, the State takes a positive step just by going through the review process. The CESCR applies moral pressure by commenting in writing on apparent violations—causing embarrassment for representatives of non-compliant States during verbal exchanges at a session—by advising States on the changes they need to adopt at home, and by reporting on whether States follow that advice.

Reproduced below are samples of comments from Concluding Observations directed at various States Parties reviewed during recent sessions. These are excerpts from longer observations that the CESCR published concerning each State. The examples illustrate the range of approaches that the CESCR can take in its Concluding Observations.

10.5.1 Examples of Concluding Observations

State A

... The Committee takes note of the partial implementation of the Government’s plan to facilitate home ownership by tenants illegally occupying government property by
giving them the opportunity to purchase the land they are occupying at preferential interest rates.

...[The Committee] is particularly concerned about the large number of workers who fall within the informal economic sectors. Approximately 37 percent of urban workers in the country are not registered, which, according to the Government’s own estimates, implies that 3 million workers have no social security coverage.

...The Committee urges the State party to review its policies on health, and in particular that it pay attention to the issues of mental health, maternal mortality, adolescent pregnancies and HIV/AIDS, and that it provide the Committee with comprehensive statistics in its next report.

State B

... The Committee notes that a lack of concrete and specific information, both in the written report and in the replies provided by the Government of the State party, and the absence of a core document prevented the Committee from making an effective evaluation of the actual situation concerning the enjoyment by the people of [State B] of the human rights provided for in the Covenant.

... The Committee notes that the repayment of external debt by [State B], which absorbs approximately two thirds of the country’s export earnings, negatively affects the ability of the Government to allocate sufficient resources to the social sector.

... The Committee deplores the lack of progress made by the Government in combatting the continuing discriminatory practices against women and girls which impede the enjoyment of their rights under the Covenant. Such practices include polygamy, the forced early marriage of girls and discriminatory laws which prevent women from inheriting land.

State C

... The Committee thanks the Government of [State C] for the presentation of its report, which was in keeping with the Committee’s guidelines, although it was nearly nine years late. The Committee also welcomed the written submission
of full replies to its list of questions and expressed satisfaction at the open and constructive dialogue with the State party, which was represented by a delegation of experts. The Committee appreciates the high quality of the information contained in the core document.

... The Committee welcomes the Government’s intention to withdraw the reservation it entered in the Covenant concerning the right to strike.

... A third group which suffers from discrimination in the labour market is persons 55 to 65 years of age, whose unemployment rate is over 50 percent.

... The Committee wishes to express its concern at the consequences of the Tuition Fees Act which has led to a constant increase in the cost of education. Such increases are contrary to the principle of equality of opportunities between the children of rich families and the children of poor families.

**State D**

... The Committee notes the prevalence of certain traditions, customs and cultural practices in [State D] which continue to impede the full enjoyment by women of their rights under the Covenant.

... The Committee is concerned about the persisting plight of indigenous populations, ... who have limited access to, *inter alia*, health services, education, work, adequate nutrition and housing.

... The Committee urges the State party to take more effective measures to combat domestic violence, in particular domestic violence against women, and the serious problem of street children. The Committee also urges the State party to remedy the root causes of these problems.

Governments do not always comply with requests from the CESC (or other UN human rights bodies) asking for follow-up information. Nor do they always act in response to CESC advice. CESC intervention through rapid communication with State authorities has occurred occasionally, often with respect to housing rights. It is difficult for the CESC to go to a country to investigate continuing problems on site. The CESC is required first to obtain an invitation...
from the government of that country, and that can take years. Nonetheless, the CESCR has been able to send representatives to some States, and a few of these missions appeared to result in positive changes regarding respect for rights. For example, the CESCR’s Concluding Observations regarding Panama in 1995 record one such instance (on housing rights), and there were several references in the

10.2 CESCR Visit to a Country / Dominican Republic

In 1990 the CESCR decided that information on housing in the Dominican Republic’s first report was insufficient. The CESCR also found that the State’s answers to follow-up queries were inadequate. Among other issues, the CESCR was concerned about harsh methods used to evict nearly 15,000 families from their homes, and the “deplorable conditions” in which they lived afterwards. The CESCR said that Covenant obligations on the right to housing had not been respected. (NGOs had provided ample data on violations.) While continuing to request further information, the CESCR asked the State to suspend any action that “does not fully conform to the provisions of the Covenant”.

The government denied any large-scale evictions amounting to a Covenant violation, claiming that most people evicted were moved “from poorly equipped slum housing to comfortable accommodation”. In 1997 the government finally accepted a longstanding offer from the CESCR to send a delegation to view the local situation. Two CESCR members and a UN staffer went to the Dominican Republic for “on-site visits” and to meet with government officials, as well as with individuals and organisations from “civil society” (for example, religious groups, NGOs, trade unions, and academic institutions).

The CESCR considered the State’s second periodic report in 1997, and the Concluding Observations, issued in December 1997, reported evidence of positive developments. The Concluding Observations noted a contrast between older policies, which were inappropriate for a country with severe housing problems, and policies of the new government, which seemed more respectful of Covenant rights. The CESCR praised a new policy being applied that involved “giving priority to low-income groups and carrying out housing projects in consultation with the communities concerned”. Previous State policies had involved “authoritarian planning of housing projects” and “gave preference to major ornamental public works, including the Christopher Columbus lighthouse, which unnecessarily caused the displacement of large numbers of people”.

The CESCR applauded a plan to create a State Secretariat on Housing to coordinate government activities and noted commitments to suspend all forced evictions by public agencies and provide adequate alternative housing to persons evicted or displaced.

1990s to situations in Hong Kong that warranted a CESCR mission. A further illustration is provided on the previous page regarding the Dominican Republic.

10.5.2 NGO Activities Related to the Concluding Observations

When the CESCR is meeting to draft its Concluding Observations, there is no role for NGOs and no official contact with the CESCR. While awaiting the release of the document, however, NGO personnel can be preparing press releases, trying to arrange for media attention once the CESCR’s opinions are made public, and planning follow-up activities in the NGO’s homeland.

Interacting with Media Personnel to Publicise CESCR Observations

A critical moment for journalists to be present is when the Concluding Observations of the CESCR are finalised and released, usually on the last day of its session. A news conference may be held at that time by the CESCR, which may not be open to NGOs. For accuracy, NGO statements to the media should try to quote directly from the official Concluding Observations rather than from press releases that may be issued.

Follow-Up to the Concluding Observations

An important function of NGOs is to monitor how well the State complies with suggestions made by the CESCR in its Concluding Observations. This Handbook has advised NGOs trying to generate positive change in a country’s laws, policies or programmes to attempt to arrange an annual review of implementation of Covenant rights in the State, perhaps within the national parliament. Such a cycle of regular accountability by the government could begin shortly after the CESCR has concluded its review of the State.

A national NGO does not need to wait for the UN to send a team of experts to examine local situations that seem to violate the Covenant. In a few instances, international NGOs with expertise on housing rights have sent a “fact-finding mission” to a country. Because these international NGOs are well known and respected within the UN system, a report that they publish concerning rights violations would be taken seriously by UN authorities. These NGOs (Habitat International Coalition (HIC) and the Centre on Housing Rights and Evictions - COHRE) have been very active for many years, building up their knowledge and credibility in the process.
10.6 Summary Records

The Summary Records of CESCR sessions are more detailed than the Concluding Observations pertaining to the same meetings. The Summary Records summarise many of the oral questions and answers that occur in exchanges between government delegations and CESCR members.

Reading the Summary Records of past CESCR sessions can be valuable preparation for an NGO planning to submit an alternative report or wishing to make a presentation in person at a future CESCR session. The Summary Records with respect to the Committee’s review of an NGO’s own country can also be useful when an NGO is later trying to explain the process and the results to the public, legislators and the media at home. The Summary Records do not, however, record what NGOs say to the CESCR.

10.7 Days of General Discussion

The CESCR holds a Day of General Discussion in Geneva during each of its semi-annual sessions. The topics are made public months in advance. A few specialists on a subject, such as representatives of UN agencies, academic scholars, and other experts in the field (including NGO experts) are invited to discuss one or two issues and seek clarification and practical conclusions. Most times, these invited experts submit discussion papers explaining their points of view. The Days are “open”, so NGO representatives and other interested parties are welcome to observe and listen. The opportunity for observers to make statements or to ask questions depends on the goals and organisation of the session. Background papers submitted by academic and NGO experts for a Day of General Discussion are often made available as UN documents.

The following issues have been the focus of Days of General Discussion: the right to housing, economic and social indicators, the right to take part in cultural life, the rights of the ageing and elderly, the right to health, the role of social safety nets, human rights education, the interpretation and practical application of the obligations incumbent on States parties, a draft optional protocol to the Covenant (see section 10 of this chapter), revision of the general guidelines for reporting by States, the content of the right to food, globalisation and its impact on the enjoyment of ESC rights, and the right to education.
10.8 General Comments

The CESCR periodically publishes guidelines, usually called “General Comments”. General Comments explain in more detail what is encompassed in the Covenant rights, and tell all States how they can be more successful in complying with treaty obligations, how to avoid violations, and what kinds of information in a State’s report will help the CESCR. Several of the General Comments explain what is needed to fulfil a particular Covenant right (for example, housing), or describe violations that States must avoid (for example, forced evictions). Others give procedural or other practical advice useful for States and NGOs, or stress important general principles of the Covenant.

The Committee has adopted the following General Comments:

- General Comment No. 1 (1989) on reporting by States parties
- GC No. 2 (1990) on international technical assistance measures
- GC No. 3 (1990) on the nature of States parties’ obligations
- GC No. 4 (1991) on the right to adequate housing
- GC No. 5 (1994) on the rights of persons with disabilities
- GC No. 6 (1995) on the economic, social and cultural rights of older persons
- GC No. 7 (1997) on forced evictions
- GC No. 8 (1997) on the relationship between economic sanctions and respect for economic, social and cultural rights
- GC No. 9 (1998) on domestic application of the Covenant
- GC No. 10 (1998) on the role of national human rights institutions
- GC No. 11 (1999) on plans of action for primary education
- GC No. 12 (1999) on the right to adequate food
- GC No. 13 (1999) on the right to education
The General Comments are available in CESCR reports in many libraries, by mail from the UN, and on the OHCHR website.

Among the general advice issued by the CESCR has been the view that all States are obligated to ensure that individuals and groups have access to remedies (through courts, for example) to protect their rights when they are threatened. The CESCR has also noted that its job of monitoring whether a State complies with its obligations is aided by the requirement that each State report must identify the groups within the country that are particularly vulnerable because of discrimination.

Input for General Comments is sometimes drawn from the results of a Day of General Discussion, but there is not always a connection between the General Discussions and the General Comments. Although the CESCR may develop a General Comment in private before publishing it, there is a recent trend toward seeking wider input before drafting a General Comment. General Comments are circulated informally for reactions and are discussed and adopted in a public session. The General Comments adopted in recent sessions have been preceded by a period of several months during which the CESCR actively sought NGO and other input. An NGO could try to influence the content or development of a General Comment by asking the CESCR Secretariat about the subjects of upcoming General Comments, and submitting its own background or opinion paper to the CESCR.

10.9 Notes Concerning the OHCHR Website

A great deal of information useful for NGOs can be found by exploring the many links from the OHCHR home page at http://www.unhchr.ch. It is not always easy to find what you are looking for, however, so a good span of time should be set aside for any search. By navigating the OHCHR site one can find all of the following:

- A list of countries that have ratified the International Covenant on Economic, Social and Cultural Rights (as well as lists showing ratifications of other human rights treaties).

- The names of States Parties whose reports will be reviewed at CESCR meetings during the next two years, as well as other items on the Committee’s agenda.
• Information on whether a State’s periodic report is available at the website, including whether versions are available in English, French or Spanish.

• Fact sheets that interpret the meaning of specific rights and describe how to implement them.

The website also contains “click-on” links to extensive information about the UN’s entire range of human rights principles and activities. Instructions on how to navigate the OHCHR website are provided in Annex D.

_Can We Still Learn About CESCR Activities Without Using a Computer?_

One does not need to rely on computer communication to learn what is on the agenda for the next several CESCR sessions. NGOs and others can contact officials in the CESCR Secretariat by ordinary mail, telephone or fax. Addresses and other contact information are provided in Annex C.

10.10 Does the CESCR Review Complaints from Individuals about Violations of the Covenant?

The CESCR usually considers violations of the Covenant only when a State’s regular report is reviewed. There is no procedure to permit an individual or a group to file a complaint about a violation, or for the CESCR to consider the problem on short notice. In contrast, the CEDAW Committee has approved such a provision for CEDAW. Refer to Chapter 11 for additional information.

Many NGOs and others are trying to persuade the UN to adopt an “Optional Protocol” to the ICESCR that would permit individuals to submit complaints of Covenant violations. Under the provisions of this Optional Protocol, any State that ratified the Covenant would have the option of taking on extra duties by ratifying the proposed Optional Protocol as well. By doing this, a country would be agreeing that its people have the right to make individual complaints to the UN about human rights violations for which that State Party is responsible. These complaints, known as “petitions”, would be reviewed by the CESCR on a case-by-case basis.

As with most UN human rights procedures, a recommendation made to a State by the CESCR under the Optional Protocol would not have much effect unless the State voluntarily took the recommended
action to improve human rights. There is a good chance, however, that countries would pay serious attention to decisions made on the basis of an individual complaint. That is partly because the procedure for an international body to review an individual complaint resembles the procedures followed in some courts. The media of the country that is the subject of the complaint are likely to become interested in the story. If so, they might publicise the announcement of a complaint, the arguments against the State, and the decision released by the CESCR concerning the case.

An Optional Protocol permitting individual complaints of Covenant violations has been drafted, but not approved. It is therefore not yet open for ratification by States Parties. The United Nations operates on an intergovernmental basis, and States appear reluctant to broaden the review process by permitting complaints from individuals. There has been little progress toward adoption of the Optional Protocol in recent years. However, a number of NGOs active in promotion of economic, social and cultural rights continue to campaign for adoption of the Optional Protocol.

On a more informal basis, the CESCR is free to consider a letter from an individual, but it is unlikely to review such a letter formally, except as part of the documents it reviews when gathering evidence about ESC rights in a particular State. If serious and widespread abuses of Covenant rights are occurring in a particular country, an NGO may want to inform the CESCR immediately. The NGO can send a fax, letter, or e-mail message to the CESCR Secretariat. In rare cases the CESCR or its Chair may decide to contact an offending State without waiting for its next periodic review. An NGO is more likely to receive a rapid response to an emergency appeal if it contacts multiple individuals and organisations. Possibilities include the following:

- Resources inside the country where the violations are occurring:

  Ministers responsible for the subject areas in which possible violations are arising (for example, the Minister of Housing or Minister of Health); the Attorney General/Minister of Justice; the Foreign Minister; friendly politicians and relevant parliamentary committees; supportive NGO coalitions; the courts (to seek an injunction or other order halting harmful activity); embassies of countries known to champion relevant human rights; print, broadcast and media journalists.
• Resources outside the country:

The UN High Commissioner for Human Rights; international human rights NGOs, especially NGOs such as Amnesty International, AAAS or FIAN, which operate Urgent Action networks or services; human rights supervisory bodies of regional organisations; the foreign ministries of countries known to champion the relevant human rights; and international print, broadcast and media journalists.

10.11 Reviewing a State Out of Turn

In rare cases, the CESCR may decide to continue monitoring a State or arrange to re-examine that State’s record sooner than it normally would. This could occur if a State Party has failed to comply with CESCR requests for information, or with its recommendations on how to avoid or cease violating Covenant rights. (The illustrations referring to Canada and the Dominican Republic earlier in this chapter are examples.) If an NGO thinks that such an exceptional examination is desirable because of continuing violations, it can send a letter or report to the CESCR Secretariat. It should also send a copy of the correspondence to any CESCR member who has shown special expertise or interest regarding the apparent violations in the past. Before doing so, the NGO may wish to seek advice from NGOs that have more experience with CESCR procedures.

If the CESCR always waited to receive a full report—or any report—from a State, it would be easy for a country to avoid scrutiny, simply by not submitting a report. A State should not be able to escape review by violating its Covenant obligation to submit periodic reports to the CESCR. The Committee may continue monitoring a country because of an ongoing problem. In such instances, NGOs normally do much to persuade the CESCR to maintain its watch.

10.12 Can the CESCR Review the Record of a State that Has Ratified the Covenant But Has Not Submitted a Report?

The CESCR has resolved to consider implementation of the Covenant in States Parties whose reports are long overdue, including those that have not filed even an initial report under the Covenant. The Committee notifies each such State Party of its intention to consider the situation in that country at a specified future session. In the absence of any report, it considers the status of ESC rights in light
of all available information. For instance, in 1999 the Committee reviewed the record of the Solomon Islands, which had not submitted its first required report. In May 2000, it examined the record of the Congo (Brazzaville), despite the absence of a report.

The CESCR is not obliged to wait for the next scheduled review of a State (which could mean a delay of five years) before commenting on whether the State is complying with the Covenant. For example, in its Concluding Observations concerning Israel in 1998, the CESCR asked the State’s representatives to report back within 18 months on certain issues. The Committee can monitor a State on almost a continuing basis, as it has done with several countries, on the expectation that a State’s government will modify the way it operates as a result of the continuing scrutiny.
CHAPTER 11

ESCR Promotion by Other UN and Regional Human Rights Bodies, and Related Roles for NGOS

11.1 Introduction to Other UN Mechanisms

Chapter 10 focused on the work of the Committee on Economic, Social and Cultural Rights. Chapter 11 provides brief notes on some of the other ways that the UN deals with ESC rights. Like the CESCR, most other UN human rights bodies rely on periodic reporting, persuasion and publicity to encourage countries to meet their human rights obligations.

There are many options available for drawing the UN’s attention to economic, social and cultural rights issues in a country, even if that country has not ratified the Covenant. The resources that an NGO devotes to any UN activity must be weighed against the likely benefits. As with approaches made by NGOs to the CESCR, attempts to influence a State’s policy and practices by contacting other UN bodies must be accompanied by activity in the home country, and possibly by efforts co-ordinated with international NGOs and sympathetic foreign governments.

At the UN, one thing that makes governments and UN personnel listen to national and international NGOs is the fact that they frequently provide the most accurate and up-to-date information about human rights in a country. Within the UN, States that are rivals might each quote from reports written by NGOs to show that the other State is not fulfilling the requirements of a human rights treaty. It is very important for NGOs to maintain a good image as sources of reliable information. NGOs should try as hard as possible to be sure that information they have about violations is based on real knowledge and is not easy for governments to deny or refute. This care helps to strengthen the credibility of what an NGO says on
any topic. If the NGO version of current facts is accepted by a UN treaty-monitoring Committee, this gives the Committee a helpful basis on which to measure progress that the State later achieves in realising economic, social and cultural rights.

UN agencies do not always co-ordinate their efforts to promote human rights in a country. It is now possible, however, to learn what many UN agencies and committees have said about the human rights performance of a country in previous years, by looking at one source. That resource, *For the Record*, is published annually in print and on the World Wide Web by Human Rights Internet (HRI), an NGO that focuses on NGO human rights activities. The 1999 edition of *For the Record* is available on the HRI website in both English (http://www.hri.ca/fortherecord1999) and French (http://www.hri.ca/fortherecord1999/bilan1999).

### 11.2 UN Committees Other than the CESC R

If an NGO has sufficient resources, it may want to challenge violations of economic, social and cultural rights not only through the CESC R review process, but also by participating in reviews of a State by other UN committees that monitor compliance with a treaty. The most logical options are the CEDAW Committee and the Committee on the Rights of the Child (CRC). The treaties which they monitor contain substantial guarantees for economic, social and cultural rights, as well as civil and political rights. If an NGO’s main focus is on women’s or children’s human rights, it may want to approach one of these committees in preference to the CESC R.

Although it may not be an obvious way to promote ESC rights, NGOs should consider providing information to the UN Human Rights Committee, which has the duty to monitor compliance with the International Covenant on Civil and Political Rights. We observed in Chapter 4 that denial of rights in the ICCPR has negative effects on ESC rights. For example, if a State denies political freedom of association or freedom of expression (including free speech and access to information), this denial makes it more difficult for people to protect ESC rights. The ICCPR also contains provisions which can be described as both CP rights and ESC rights, such as freedom of association for workers, guarantees of rights for minorities, and the rights of peoples to benefit from natural resources. And, like other treaties, the ICCPR prohibits discrimination and requires equal treatment of women and men, principles that are relevant to social and economic aspects of life as well as to civil and political concerns.
Connections between CP and ESC rights are demonstrated by the case illustrations in Chapter 4. See also the two case illustrations based on the Lubicon dispute, found in Chapter 8 (under Article 25) and in Chapter 9.10. The first of these describes a complaint to the Human Rights Committee. Note that in 1999, NGOs promoting ESC rights provided input to the Human Rights Committee during its review of Canada’s most recent report under the ICCPR. The Concluding Observations issued by the Human Rights Committee, while of course focusing on CP rights, also criticised Canada’s record in certain economic and social fields.

Two documents of interest to NGOs are: “Joint Submissions of the Charter Committee on Poverty Issues (CCPI), the National Anti-Poverty Organization (NAPO), and the Centre for Equality Rights in Accommodation (CERA) to the United Nations Human Rights Committee on the Occasion of the Consideration of Canada’s Fourth Report on the Implementation of the International Covenant on Civil and Political Rights” (March 1999); and “Presentation to the Standing Committee on Foreign Affairs and International Trade” (March 1999). The second paper may give you ideas on how to approach your own national legislature, congress or parliament to try to promote economic, social and cultural rights. To track down these documents, check the CCPI website at http://www.web.net/ccpi, or write to the CCPI at the address in Annex E.

11.3 Convention on the Rights of the Child

All but two countries have ratified the Convention on the Rights of the Child, including many that have not ratified the ICESCR. The Committee on the Rights of the Child is concerned about the human rights of children and their families, including economic, social and cultural rights. Among the rights stated in the Convention are “maximum child survival and development”; full rights for each child without discrimination; use of “the child’s best interests” as the prevailing standard; protection of children from physical or mental harm and neglect, including sexual abuse or exploitation; free and compulsory primary education; the right to special treatment, education and care for children who have a disability; and the right of children from minority and indigenous populations to enjoy freely their own culture, religion and language.

Because of the small number of countries that a UN committee can review during its infrequent meetings, the CRC will probably not review a State’s record in the same year as the CESCR review. Therefore, a good strategy is to try to ensure that both the CESCR
and the CRC are made aware of violations of the economic, social and cultural rights of children and youth. Data related to the rights of young women and girls can also be submitted to the CEDAW Committee.

The CRC operates similarly to the CESCR, reviewing and commenting on periodic reports sent in by States, while taking into account other evidence offered by NGOs. Like the CESCR, the CRC is increasingly open to input from NGOs and to their participation in its deliberations. NGOs are encouraged to respond in writing to a State’s report concerning its compliance with the Convention on the Rights of the Child. NGOs submitting written information are allowed to attend the CRC’s Pre-Sessional Working Group. Like the CESCR, the CRC’s Pre-Sessional Working Group identifies issues for the CRC to raise with the State.

Article 10(3) of the Covenant requires that all children be given special protection and assistance, beyond what is provided for adults, because of children’s general vulnerability. An additional duty of the State is to protect children who are vulnerable to discrimination. One way that the CESCR facilitates monitoring of State compliance is to require each State to identify the groups within its society who are vulnerable because of discrimination. This should be done for adults, but it is especially important with respect to the rights of children. States should also report on the procedures they use for identifying the groups of children who need special protection and assistance.

The children who are particularly vulnerable and are entitled to special protection and assistance may vary from country to country. According to comments made by the CESCR and the CRC, this category may include the following: children who have a foreign nationality; children born “stateless” (without a nationality); girls who are already mothers; children born to mothers who are not married; homeless children; children of ethnic minorities; children who have a disability; street children; and orphans. Other groups who can be described as vulnerable are child labourers, and the children of refugees, migrant workers, “aliens”, and unregistered or undocumented migrants.

The minimum essential obligations of a State include the obligation to protect and aid children in its care, including those in special homes for children. For children who live and work on the street, it is notable that the CESCR has recommended that States take all “necessary legislative and economic measures”, including providing information programmes on mental and physical health care.
In addition to the UN human rights website, a good place to find discussion of children’s ESCR rights is at the website of UNICEF (http://www.unicef.org), which refers to the Convention on the Rights of the Child in many of its policies and activities.

11.4 Convention on the Elimination of All Forms of Discrimination Against Women

A committee of independent experts monitors compliance with the economic, social, cultural and other rights of women and girls in the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The CEDAW Committee’s procedures are in many ways similar to those of the CESCR and the CRC. Promotion of the economic, social and cultural rights of women and girls is a substantial part of what both the ESCR and the CEDAW Committees attempt to do. The ESCR Covenant bans sex discrimination and demands gender equity; CEDAW elaborates on these principles in great detail for most facets of human life.

The CEDAW Committee is receptive to contributions from NGOs. To learn how to contact the UN officials who assist the CEDAW Committee, see Annex C.

A publication that explains protections for women’s human rights under the UN and in the human rights systems of regional organisations is: Women’s Human Rights Step by Step (1997). This book provides information on how to use human rights procedures at the national and international levels. It is available through Women, Law and Development International (http://www.wld.org) and the Women’s Rights Project of Human Rights Watch (http://www.hrw.org).

In December 1999 the General Assembly (in Resolution A/54/4) adopted a new treaty linked to CEDAW, called an Optional Protocol. This treaty will allow individuals or groups to submit a complaint (called a “communication”) about a violation of CEDAW to the CEDAW Committee. Note that the Committee will review a communication only if the complaint concerns a country that has become a State Party to the Protocol. Article 11 of the Optional Protocol requires a State Party to ensure the protection of those who submit communications.

The Optional Protocol will also allow the Committee to investigate allegations of very serious or systematic violations of CEDAW committed by a State Party. States that become parties to the Optional Protocol will not be allowed to make exceptions (called “reservations”) to their obligations to comply with any portion of it. Although States
have the option of ratifying the Protocol or not, once they do ratify it, the Optional Protocol’s provisions are compulsory.

At the time of writing, the Optional Protocol is not yet legally in force. Readers can check on the status of the Protocol by contacting the CEDAW Committee’s Secretariat.

11.5 International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

The Committee supervising implementation of the International Convention on the Elimination of All Forms of Racial Discrimination follows procedures similar to those of the CESCR, CEDAW and CRC. The CERD Committee is not the focus of as much attention concerning ESC rights, however.

11.6 The UN Commission on Human Rights, the Sub-Commission on the Promotion and Protection of Human Rights, and Special Mechanisms

Certain “political bodies” of the UN (so called because they consist of representatives of national governments), such as the UN Commission on Human Rights (CHR) and its Sub-Commission on the Promotion and Protection of Human Rights, encompass economic, social and cultural rights within their mandates. NGOs need special status with ECOSOC to participate in proceedings of the UN Commission on Human Rights. Sometimes an NGO that has this status will allow an individual representing a smaller or newer group to register with the UN as part of its delegation at a CHR session. This will permit a person to obtain an identity badge, enter the meeting room and participate in relevant meetings, observe what governments do and say, and perhaps make a brief statement or distribute documents. One source for information on obtaining special NGO status is Human Rights Internet, referred to in section 1 of this chapter. Contact information is provided in Annex E.

The Commission on Human Rights and the Sub-Commission may appoint experts to review and investigate designated issues and recommend remedies. In addition to particular topics, they may focus on the human rights situations in specific countries. The appointed experts may be called Special Rapporteurs, Special Experts, Special Representatives, Independent Experts or members of Working Groups. These appointed experts and working groups are often referred to
collectively as “Special Mechanisms”. The differences among these entities are not important for the purposes of this Handbook. The variation among the “Special” titles depends mostly on how the experts are appointed and the body within the UN to which they report. The reports written by these individuals are valuable sources of information and discussion on the meaning of human rights and how they may be implemented.

Special Rapporteurs are sometimes government officials representing countries. Often they are university professors or senior officers of NGOs. These Working Groups, Special Rapporteurs, and other human rights investigators report annually or biannually to the UN bodies that appointed them. They describe what they have learned about a country or about a human rights issue and make recommendations.

Information on the topics being addressed by Special Rapporteurs and other special mechanisms, to which NGOs may contribute information and advice, can be found on the website of the UN High Commissioner for Human Rights. The following examples of current or recent areas of investigation provide a sense of the wide range of subjects examined by the expert individuals and working groups appointed by the Commission or the Subcommission. Note that this information can change quickly as existing mandates are completed and new ones are begun.

- The right to education.
- Extreme poverty.
- The impact of toxic waste on the enjoyment of human rights.
- Internally displaced persons.
- The sale of children, child prostitution and child pornography.
- Access to drinking water supply and sanitation.
- The relationship between human rights and income distribution.
- The right to food.
- The relationship between international trade union rights and the activities of transnational corporations.

The people who operate as part of UN “human rights mechanisms” know that they cannot obtain a full understanding of what is happening
in a country unless NGOs provide them with their own information and opinions, which generally differ from what the government says. When these individuals visit selected countries as part of their investigation, they often seek out opportunities to meet with NGOs there. NGOs are encouraged to provide information and advice to the Special Rapporteur. NGOs are usually the main source of information on violations, and are one of the principal sources of ideas on how to implement economic, social and cultural rights more fully. Often the leading expert on implementation of an ESC right is an individual who works with an NGO. NGOs should normally not be afraid to suggest their ideas directly to UN bodies. If it is risky in the NGO’s country to be identified as a human rights defender, information may be provided indirectly and confidentially through trusted representatives of international NGOs or officials of supportive governments. (See the discussion of Internet security measures in Annex G)

Special rapporteurs and the other special human rights mechanisms can be contacted through the Office of the United Nations High Commissioner for Human Rights in Geneva.

11.7 Technical Advice and Assistance from the Office of the High Commissioner for Human Rights

Staff from the Office of the High Commissioner for Human Rights may work with a government over a period of years to help it to correct violations and meet its treaty obligations. UN staff offer “technical advice and assistance” to assist governments wishing to implement economic, social and cultural rights more fully. This kind of assistance is usually not offered or sought until the country’s human rights failures are revealed and criticised publicly. Governments cannot be forced to accept such assistance, however. Some will welcome advice and aid because they genuinely want to improve their human rights performance. Others will accept it reluctantly, because doing so is better than being continually condemned in the eyes and ears of the world for consistently violating human rights.

Mainstreaming Human Rights Within the United Nations

The UN Secretary General and the High Commissioner for Human Rights have called for the integration of human rights into all spheres of UN operations, as part of overall UN reform. Agencies within the UN system have taken up the challenge in different ways.
and to different degrees. Several examples are given below, but this list is not exhaustive.

11.8 International Labour Organisation (ILO)

Although the CESCR is the main UN expert group monitoring compliance with economic, social and cultural rights, most complaints about violations of the rights of workers and trade unions are dealt with by the ILO. Trade unions regularly submit complaints about violations of ILO conventions to ILO bodies. The ability of non-governmental groups like trade unions to submit complaints directly to a UN body is unusual in the UN system, which is oriented to states. For example, there is currently no procedure for individuals or groups to file complaints of violations that will trigger a review process by the CESCR. (See Chapter 10 for information on efforts to adopt an Optional Protol that will permit individual complaints.)

The ILO is an agency of the United Nations. ILO supervisory bodies are made up of representatives of workers, employers and governments. When the ILO recommends to a country that it improve respect for, or stop violations of, workers’ rights, the country is expected to comply voluntarily.

State members of the ILO must report every two years on measures they have taken to implement the most important treaties ("Conventions"), and every four years for less central treaties. The reports are examined by an independent committee of experts, who may convey either “observations” or “direct requests” to a state to express concerns about its record. The ILO also has a process for assessing how well the practices of States conform to important labour rights treaties, even if the States have not ratified these treaties. This procedure emphasises the human rights features of the various ILO Conventions. The ILO has a special procedure for receiving and investigating complaints concerning violations of the right to freedom of association. Allegations may be investigated by the ILO’s Fact Finding and Conciliation Commission.

The ILO reports regularly to the CESCR, but these reports may not give the full picture on workers’ rights. NGOs and trade unions will need to ensure that accurate and full information (in their view) is supplied to the CESCR. Countries rarely change their laws or policies in response to criticism from the ILO, however. States are more likely to respond to large-scale campaigns of citizens or groups of citizens such as workers (including threats of strikes). For information on the ILO, you may contact its website (http://www.ilo.org), or the International
Confederation of Free Trade Unions (http://www.icftu.org). The latter is an association of trade unions and trade union federations that are independent of State or employer control.

In June 1998, the ILO adopted a Declaration on Fundamental Principles and Rights at Work, affirming agreement on universal core labour standards found in certain ILO Conventions, including the abolition of forced labour (Conventions 29 and 105); freedom of association and the right to collective bargaining (Conventions 87 and 98); abolition of child labour (Convention 138); and Non-Discrimination in Employment (Conventions 100 and 111).

11.9 World Health Organisation and UNICEF

The World Health Organisation (WHO) and UNICEF (the United Nations Children’s Fund) have stated that health rights and children’s rights respectively are central to their work. WHO explicitly refers to the right to health as a focus of its objectives, and it has tried to find reliable indicators that can show gradual achievement of a country’s obligations with respect to the right to health. The WHO constitution refers to the enjoyment of the highest standards of health as a fundamental right of each human being. UNICEF has adopted a human rights framework for many of its programmes, guided by the Convention on the Rights of the Child.

11.10 United Nations Development Programme (UNDP)

The UNDP is a recent convert to the view that human rights, especially ESC rights, should be nearer to the heart of its planning and activities. In January 1998, the UNDP and Mary Robinson, the High Commissioner for Human Rights, jointly inaugurated a policy document called “Integrating Human Rights with Sustainable Human Development”. In the document, the UNDP promised that “human rights [would] be mainstreamed in its activities and not relegated only to specific human rights projects”. It contemplated developing “a human rights-based framework in its antipoverty, pro-sustainable human development work”. The UNDP has produced a policy on human rights to guide its related work with national governments.
11.11 World Bank (International Bank for Reconstruction and Development)

In 1993 the World Bank took steps toward accepting greater public openness and responsibility concerning the outcomes of the development programmes that it supports. These changes were the result of frequent criticism of the Bank. Critics said that development projects supported by the World Bank often harmed large numbers of people and that the Bank showed insensitivity to these negative impacts. The Bank was also criticised for tolerating the failure of many borrowing countries to reduce the negative social and environmental effects of projects. The Bank was accused of failing to follow its own guidelines and procedures. The key motivator for change at the Bank was a worldwide campaign, at the local and international levels, against the construction of a massive project in India, the Sardar Sarovar dam, discussed in Chapter 4.

An innovation at the World Bank in 1993, in response to situations like the Sardar Sarovar controversy, was the creation of an Inspection Panel, made up of three independent experts. Two or more people from the territory of a borrowing country can ask the Inspection Panel to investigate World Bank activities. Those making the request must be able to claim that they are likely to suffer a material adverse effect or that they have been significantly harmed as a result of the Bank’s violation of its own guidelines. If a complaint sent to the Panel satisfies preliminary requirements, and the Panel recommends an investigation, the Bank will authorise one.

Those requesting an investigation may ask the Panel to keep their identities confidential. In discussions with the World Bank and with government representatives, the individual applicants can be represented (for example) by an NGO and/or by lawyers. That is what occurred in the example from Argentina described below.

Investigations are conducted by one or more Panel members, who are given access to all relevant Bank files and personnel. Panel members may also visit places affected by the activity under investigation and meet with people who may be affected. The report resulting from the Panel’s investigation goes to the Bank staff and Bank executive directors. The report is released to the complainant(s) and the public only after the Bank’s staff and directors have resolved any internal disagreements about the case. The Bank’s president is required to respond to the Panel’s findings by informing the executive directors of actions that he or she intends to take, if any. The Panel cannot order the Bank to take action.

The request for an investigation must state that World Bank officials have been given an opportunity to deal with the complaint. It
must “assert that its subject matter has been brought to Management’s attention and that, in the requester’s view, Management has failed to respond adequately [by] demonstrating that it has followed or is taking steps to follow the Bank’s policies and procedures”.

Guidance is available for NGOs and others to follow in preparing claims for the Panel. Two non-governmental entities that are very knowledgeable about the Bank and its Inspection Panel are the Bank

### 11.1 Seeking a World Bank Panel Intervention to Protect Poverty Reduction Programmes (and the Right to Food) / Argentina

A request submitted to the World Bank’s Inspection Panel in June 1999 alleged that Argentina’s government was not fulfilling guarantees made to the Bank concerning national social programmes. The complaint said that severe budget reductions to the Pro-Huerta programme placed it in danger of collapse. This programme promoted poverty reduction and assurance of adequate food for everyone, by assisting the poorest people to grow their own food. The request alleged that the planned funding curtailment would violate the current loan agreement between the Bank and the government, which required maintenance of the Pro-Huerta scheme and other social programmes.

The request was submitted by lawyers from CELS, which represented approximately 418 beneficiaries of the Pro-Huerta programme. Other CELS cases have been described in the case illustrations in Chapter 7.1 and under Article 12 in Chapter 8. CELS submitted powers of attorney to the Panel, authorising it to act on behalf of the requesters, who asked that the Panel keep their names confidential.

Although Bank officials admitted that Argentina’s budgetary reductions could harm the Pro-Huerta programme, they did not prescribe specific measures to deal with the problem. Therefore, the requesters also asked the World Bank to delay its second and third loan payments to Argentina until the government restored adequate funding. The requesters asserted that this approach would be consistent with the Bank’s general goal of softening the effects of “structural adjustment”, which the Bank had required Argentina to implement.

It appears that merely by seeking a Panel examination, Argentine groups helped to produce positive results. After the request was lodged with the Bank, the government doubled the Pro-Huerta scheme’s budget for 1999. And for the year 2000, the announced budget was increased from zero to eight million pesos. A lesson that one could draw from the Argentine controversy is that requesting a Panel investigation (assuming that the claim has merit) is an effective way for NGOs to influence decision-making. A well-publicised request for an investigation by the Inspection Panel, an agency of the powerful World Bank, can be a useful tool in lobbying for economic, social and cultural rights.

The Inspection Panel report can be viewed at the World Bank’s website (www.worldbank.org), as “Argentina: Special Structural Adjustment Loan (Loan 4405-AR)”.

Information Centre, at http://www.bicusa.org, and the Center for International Environmental Law (CIEL), at http://www.ciel.org. CIEL has published a Citizen’s Guide on the World Bank’s Inspection Panel. Many of the cases reviewed by the Inspection Panel concern potential damage to the environment, as well as to economic, social and cultural rights.

The Bank reviewed Inspection Panel procedures in 1999 and concluded by confirming most of the existing process. Anyone wanting up-to-date details on technical matters should contact the World Bank at the addresses given in Annex C or visit the Bank’s website at http://www.worldbank.org. At the website you may search for “Conclusions of the Board’s Second Review of the Inspection Panel April 20, 1999”.

The existence and actions of the Inspection Panel implicitly acknowledge that the human rights of ordinary people must be respected in programmes and projects supported by the World Bank. Additional proposals have been put forward for better integration of ESC rights into World Bank plans and activities. See, for example, Paul Hunt, Reclaiming Social Rights, International and Comparative Perspectives, listed in Annex A.

11.12 Regional Promotion of ESC Rights

In order to keep this Handbook to a manageable size, we have not been able to examine the economic, social and cultural rights covered by such instruments as the African Charter on Human and Peoples’ Rights, the American Convention on Human Rights and the San Salvador Protocol, and the European Social Charter, nor the ESCR protections and remedies offered by national constitutions and litigation in some countries of Africa, Asia and Latin America and in the United States. Nonetheless, a few of the case illustrations presented in this Handbook are drawn from the human rights work of regional organisations and national justice systems.

The European Social Charter of 1961 was upgraded with an optional Additional Protocol in 1988 and strengthened further in the 1990s (although the revisions were not yet in force in mid-2000).

In 1999, two cases taken before the Inter-American Court on Human Rights challenged alleged violations of ESC rights. One case against Nicaragua dealt with the deprivation of lands that were historically the territory of indigenous tribes. The second, a case against Panama, concerned the retroactive application of a law that left 270 people unemployed. The Additional Protocol to the American Convention on Human Rights in the Area of Economic,
Social and Cultural Rights (Protocol of San Salvador) came into force in November 1999, when it received the designated number of ratifications. Now that it is in force, attention to economic, social and cultural rights within the Americas should be heightened.

The advent of a new African Court to hear cases that arise under the African Charter on Human and Peoples’ Rights could eventually strengthen protections for ESC rights on that continent as well. The agreement creating an African human rights court was adopted by the Organisation of African Unity and is currently awaiting enough ratifications to bring it into force.
CHAPTER 12

Sharing and Improving This Handbook

You are free to copy this Handbook or any part of it. You may share it freely (and free of charge) with anyone who might use it. In fact, we encourage you to do so. Please mention that the material came from our Handbook, in case someone else wants to contact us to obtain a copy. Please let us know about any educational or other resource materials that you create on economic, social and cultural rights issues.

You are welcome to use this book for teaching, when you contact politicians, the media, the UN or other NGOs, or when you make presentations at public meetings. You may summarise some of the information to help write your own fact sheets or pamphlets. If you use this Handbook in any of these suggested ways, we recommend that you include examples of human rights issues faced in your own community or country.

Publication of this Handbook will not stop the process of trying to improve it. The author and publishers would like to hear from any NGO that uses the Handbook as a resource when that NGO participates in the periodic review of its own country under the Covenant. The staff of that NGO will be able to lend advice on how to improve future editions of the Handbook.*

If you contact those of us who wrote and co-ordinated this Handbook, please tell us the following:

- What kind of information would you like us to add to the next version of the Handbook?

- If you have been involved in campaigns to promote or protect economic, social or cultural rights, did your campaign employ strategies/tactics that you would recommend or not recommend?

* You may contact us at shrp@aaas.org. Please include the words “ESCR Handbook” in the subject line.
• Do you have any printed or electronic documentation to share with us that describes the purpose and activities of your organisation?

The ideas and lessons you offer to us can then be shared with people anywhere in the world who work to fulfil economic, social and cultural rights, including NGOs and the UN bodies monitoring the fulfilment of economic, social and cultural rights.

An important role of NGOs is to teach others about economic, social and cultural rights. You can use this *Handbook* to assist in training the staff of organisations in which you are active, as well as from other organisations with which you co-operate. It would be helpful to inform teachers and journalists about the rights covered in this *Handbook*, since they are in a good position to spread the knowledge to other people. We hope that teachers and trainers will use this *Handbook* as a resource for their educational work.
Afterthought

There must be proper monitoring of the performance of Governments to ensure compliance with the Covenants and International Conventions. There has been a marked change in recent years in that Governments cannot any longer seriously argue that human rights are purely an internal affair which should be exempt from external scrutiny. Governments which persist in adhering to this position must be made to see that their position is untenable . . . . We must pay as much attention to securing economic, social and cultural rights as we do to civil and political rights. It would be illogical to expect civil societies to flourish if access to education, health care, food and water is denied to millions.*

- Mary Robinson
  United Nations High Commissioner for
  Human Rights

The arc of the universe is very long. It bends toward justice.

- Martin Luther King

ANNEXES
ANNEX A

Selected References


## Glossary of Terms and Acronyms

<table>
<thead>
<tr>
<th>Acronym</th>
<th>Full Form</th>
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<tbody>
<tr>
<td>AAAS</td>
<td>American Association for the Advancement of Science</td>
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<td>CAP</td>
<td>Canada Assistance Plan</td>
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<tr>
<td>CCPI</td>
<td>Charter Committee on Poverty Issues</td>
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<tr>
<td>CEDAW</td>
<td>Convention (or Committee) on the Elimination of All Forms of Discrimination Against Women</td>
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<tr>
<td>CELS</td>
<td>Centro de Estudios Legales y Sociales (Centre for Legal and Social Studies)</td>
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<tr>
<td>CERD</td>
<td>Convention (or Committee) on the Elimination of All Forms of Racial Discrimination</td>
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<tr>
<td>CESCR</td>
<td>UN Committee on Economic, Social and Cultural Rights</td>
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<tr>
<td>CHR</td>
<td>UN Commission on Human Rights</td>
</tr>
<tr>
<td>CIEL</td>
<td>Center for International Environmental Law</td>
</tr>
<tr>
<td>CP</td>
<td>Civil and political</td>
</tr>
<tr>
<td>CRC</td>
<td>Convention (or Committee) on the Rights of the Child</td>
</tr>
<tr>
<td>ECOSOC</td>
<td>UN Economic and Social Council</td>
</tr>
<tr>
<td>ESCR</td>
<td>Economic, social and cultural rights</td>
</tr>
<tr>
<td>FIAN</td>
<td>FoodFirst Information &amp; Action Network</td>
</tr>
<tr>
<td>FLO</td>
<td>Fairtrade Labelling Organisations International</td>
</tr>
<tr>
<td>HURIDOCS</td>
<td>Human Rights Information and Documentation Systems, International</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant on Economic, Social and Cultural Rights</td>
</tr>
<tr>
<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organisation</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-governmental organisation</td>
</tr>
<tr>
<td>OHCHR</td>
<td>Office of the High Commissioner for Human Rights</td>
</tr>
<tr>
<td>PGP</td>
<td>Pretty Good Privacy (encryption software)</td>
</tr>
<tr>
<td>RAFI</td>
<td>Rural Advancement Foundation, International</td>
</tr>
<tr>
<td>SANFEC</td>
<td>South Asian Network on Food, Ecology and Culture</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration on Human Rights</td>
</tr>
<tr>
<td>UN</td>
<td>United Nations</td>
</tr>
<tr>
<td>Acronym</td>
<td>Full Name</td>
</tr>
<tr>
<td>---------</td>
<td>-----------</td>
</tr>
<tr>
<td>UNDP</td>
<td>United Nations Development Programme</td>
</tr>
<tr>
<td>UNESCO</td>
<td>United Nations Educational, Scientific and Cultural Organisation</td>
</tr>
<tr>
<td>UNICEF</td>
<td>United Nations Children’s Fund</td>
</tr>
<tr>
<td>WHO</td>
<td>World Health Organisation</td>
</tr>
</tbody>
</table>
ANNEX C

UN and Regional Human Rights Bodies and Contact Data*

Committee on Economic, Social and Cultural Rights (CESCR) - Secretariat

Alexandre Tikhonov
Secretary of the Committee on Economic, Social and Cultural Rights
Tel: +41 22 917 9321, Fax: +41 22 917 9046
E-mail: atikhonov.hchr@unog.ch

Mailing address:
Office of the High Commissioner for Human Rights (OHCHR)
Palais des Nations
8-14 avenue de la Paix
CH-1211 Geneva
Switzerland

Visiting address:
OHCHR – Palais Wilson, office 1-02552
rue des Pâquis
CH-1201 Geneva
Switzerland

Other useful numbers at the Palais Wilson:
Security/Reception: +41 22 917 9353; Information: +41 22 917 9159

* Note that contact information changes frequently. The information presented here was accurate as of May 2000.
Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW)

c/o Jane Connors
Chief, Women’s Rights Unit
Division for the Advancement of Women
United Nations
1226, DC-2
2 UN Plaza
New York, NY 10017
USA
Tel: 212 963 3162, Fax: 212 963 3463
E-mail: connorsj@un.org
http://www.un.org/womenwatch/daw

Committee on the Rights of the Child (CRC) Secretariat

Paulo David
Secretary of the Committee on the Rights of the Child
Office 1-010
Palais des Nations
1211 Geneva 20 - Switzerland
Fax: + 41 22 917 90 22
e-mail: pdavid.hchr@unog.ch

Office of the UN High Commissioner for Human Rights (UNHCHR)

OHCHR-UNOG
8-14 avenue de la Paix
1211 Geneva 10, Switzerland
Tel: +41 22 917 9000, Fax: +41 22 917 9016
http://www.unhchr.ch

World Bank

1818 H Street, N.W.
Washington, DC 20433 USA
Tel: 202 458 5454, Fax: 202 522 1500
E-mail: pic@worldbank.org
http://worldbank.org
World Bank Inspection Panel
Tel: 202 458 5200, Fax: 202 522 0916
E-mail: Ipanel@worldbank.org
http://www.worldbank.org/inspectionpanel

International Labour Organisation
4, route de Morillons
CH-1211, Geneva
Switzerland
Tel: +41 22 799 6111, Fax: +41 22 798 8685
http://www.ilo.org

List of Key Special Rapporteurs to the Commission on Human Rights
(With mandates encompassing economic, social and cultural rights)

Special Rapporteur on the sale of children, child prostitution and child pornography
Ms. Ofelia Calcetas-Santos, the Philippines

Independent Expert on the right to development
Mr. Arjun Sengupta, India

Special Rapporteur on the right to education
Ms. Katarina Tomasevski, Croatia

Special Rapporteur on the effects of foreign debt on the full enjoyment of economic, social and cultural rights
Mr. Reinaldo Figueredo, Venezuela

Special Rapporteur of the human rights of migrants
Ms. Gabriela Rodriguez Pizarro, Costa Rica

Independent Expert on human rights and extreme poverty
Ms. Anne-Marie Lizin, Belgium

Independent Expert on structural adjustment policies
Mr. Fantu Cheru, Ethiopia / USA
Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights
Ms. Fatma Zohra Ouhaci-Vesely, Algeria

Special Rapporteur on violence against women, its causes and consequences
Ms. Radhika Coomaraswamy, Sri Lanka

Independent Expert on the right to restitution, compensation and rehabilitation for victims of grave violations of human rights and fundamental freedoms
Mr. Cherif Bassiouni, USA/Egypt

These individuals may all be contacted through the OHCHR.

Regional Human Rights Bodies

African Commission on Human and Peoples’ Rights
Kairaba Avenue
P.O. Box 673
Banjul, The Gambia
Tel: 220 392 962
Fax: 220 390 764
E-mail: achpr@achpr.gm
Telex: 2346 OAU BJL GV

European Commission on Human Rights
Directorate General of Human Rights
Council of Europe
F-67075 Strasbourg, France
Tel: 33 3 88 41 23 30
Fax: 33 3 88 41 27 05
http://www.humanrights.coe.int

Inter-American Commission on Human Rights
1889 F Street, NW
Washington, DC 20006 USA
Tel: 202 458 6002
Fax: 202 458 3992
E-mail: cidhoca@oas.org
ANNEX D

Navigating the Website of the Office of the High Commissioner for Human Rights

Shown below are two of many optional website pathways that one can take to learn about matters related to the International Covenant on Economic Social and Economic Rights, and to find documents pertaining to the work of the Committee. Remember that websites often change; the information presented here is current as of May 2000.

A. Suppose you want to see many kinds of information about one State Party. These might be documents prepared by the CESC, a government, or an NGO. You may take the following steps:

1. On the High Commissioner’s home page (http://www.unhchr.ch) click on the word “Documents”.
2. At the next screen click on “Treaty Bodies Database”.
3. At the next screen click on “Documents - By Treaty”.
4. At the next screen click on “Committee on Economic, Social and Cultural Rights”.
5. On the next screen, you may choose to look at any of the following types of documents concerning the country:
   State Party Report
   Reply to List of Issues
   Concluding Observations/Comments
   Summary Record
   Additional Info from State Party
   Report of UN Agencies/Organs
   Info from Non-Governmental Sources
   Info from Other Sources
   Sessional/Annual Report of Committee
   Basic Reference Document
   Other Treaty-Related Documents
General Comments
Provisional Agenda [of the CESCR]

B. Suppose you want to see examples of one type of document concerning several countries, such as Concluding Observations issued by the CESCR. To read the Concluding Observations for several countries, in English, French or Spanish, take the following steps:

1. On the High Commissioner’s home page (http://www.unhchr.ch) click on the word “Documents”.
2. At the next screen click on “Treaty Bodies Database”.
3. At the next screen click on “Documents - By Type”.
4. At the next screen click on “Concluding Observations/Comments”.
5. At the next screen you can choose Concluding Observations concerning specific countries.

The procedures for finding committee agendas and reports for other UN treaties are similar to those described above.
ANNEX E

NGOs Active in Economic, Social and Cultural Rights

The following is a partial list of organisations active in economic, social and cultural rights. We will update the version of the handbook on the World Wide Web (http://shr.aaas.org/escr/handbook) on an ongoing basis and incorporate new information into future printed editions.

Please help us expand our list by sending us information about other NGOs active in this area. If possible, please include a contact name, address, phone and fax numbers, e-mail address, and a brief description of the organisation.

Send your submission to:

AAAS/HURIDOCS ESCR Violations Project
AAAS Science and Human Rights Program
1200 New York Avenue, NW
Washington, DC 20005 USA

E-mail: shrp@aaas.org

Most of the descriptive information about the listed organizations is taken from their websites. In some cases, it has been edited for brevity.

American Association for the Advancement of Science
Science and Human Rights Program
1200 New York Avenue, NW
Washington, DC 20005 USA
Tel: 202 326 6600
Fax: 202 289 4950
E-mail: shrp@aaas.org
http://shr.aaas.org

The Science and Human Rights Program of the American Association for the Advancement of Science (AAAS) seeks to protect the human rights of scientists and to bring the methods of science to human rights work. The Program develops and advances methods for human rights documentation and monitoring, fosters support for human rights among scientists, and conducts research on a variety of related issues. A major focus of the Program’s work is economic, social and
cultural rights. The Program is currently working with HURIDOCS on a long-range project to develop tools and methodologies for monitoring violations of economic, social and cultural rights. See http://shr(aaas.org/escr for more information.

Amnesty International
International Secretariat
1 Easton Street
London WC1X 0DJ, United Kingdom
Tel: +44 0 20 7413 5500
Fax: +44 0 20 7956 1157
amnestyis@amnesty.org
http://www.amnesty.org

Amnesty International is a worldwide campaigning movement that works to promote the human rights enshrined in the Universal Declaration of Human Rights and other international standards. In particular, Amnesty International campaigns to free all prisoners of conscience; ensure fair and prompt trials for political prisoners; abolish the death penalty, torture and other cruel treatment of prisoners; end political killings and “disappearances”; and oppose human rights abuses by opposition groups. Amnesty International has around a million members and supporters in 162 countries and territories. Activities range from public demonstrations to letter-writing, from human rights education to fund-raising concerts, from individual appeals on a particular case to global campaigns on a particular issue.

Bank Information Center
733 15th Street NW, Suite 1126
Washington, D.C. 20005 USA
Tel: 202 624 0623
Fax: 202 737 1155
e-mail: ktreakle@bicusa.org
http://www.bicusa.org

The Bank Information Center (BIC) is an independent, non-profit, non-governmental organisation that provides information and strategic support to NGOs and social movements throughout the world on the projects, policies and practices of the World Bank and other Multilateral Development Banks (MDBs). BIC advocates for greater transparency, accountability and citizen participation at the MDBs.
Canadian Human Rights Foundation
1425, boul. René-Levesque O., Bureau 307
Montreal, QC H3G 1T7, Canada
Tel: 1 514 954 0382
Fax: 1 514 954 0659
E-mail: ianh@chrf.ca
http://www.chrf.ca

The Canadian Human Rights Foundation (CHRF) is a non-profit, non-governmental organisation dedicated to the defence and promotion of human rights through education, in Canada and around the world.

Center for Economic and Social Rights
162 Montague St., 2nd Floor
Brooklyn, NY 11201
Tel: 718 237 9145
Fax: 718 237 9147
E-Mail: rights@cesr.org
http://www.cesr.org/

The Center for Economic and Social Rights was established in 1993 to address a critical gap in human rights and activism in general. CESR believes that economic and social rights can provide a universally accepted framework for strengthening social justice activism. Through its projects abroad and in the United States, CESR has developed a strategy that combines research, advocacy, collaboration, and education. The Center’s basic aim is to mobilise people to confront the policies that keep them poor and hold decision-makers—be they governments or corporations—accountable for their actions.

Center for International Environmental Law (CIEL)
1367 Connecticut Avenue, NW, Suite 300
Washington, DC 20036  USA
Phone: 202 785 8700
Fax: 202 785 8701
E-mail: info@ciel.org
http://www.ciel.org

CIEL is a public interest, not-for-profit environmental law firm founded in 1989 to strengthen international and comparative environmental
law and policy around the world. CIEL provides a full range of environmental legal services in both international and comparative national law, including: policy research and publication, advice and advocacy, education and training, and institution building.

Centro de Estudios Legales y Sociales (CELS)
Rodriguez Peña Piso 1°
1020- Buenos Aires, Argentina
Tel: +54 1 371 9968
Fax: +54 1 371 3790
E-mail: postmaster@cels.org.ar

CELS is a non-governmental organisation dedicated to the protection and the promotion of human rights in Argentina through the strengthening of democracy and the rule of law. Its Economic, Social and Cultural Rights Program seeks to raise awareness and to guarantee these rights within the Argentine legal system. CELS litigates cases before local courts and international organisations, conducts research, advocates for standards for the justiciability of economic, social and cultural rights, collaborates with local and international organisations and organises workshops and seminars. CELS also worked on a parallel report presented to the United Nations Committee on Economic, Social and Cultural Rights in November 1999 to accompany Argentina’s official state party report.

Centre on Housing Rights and Evictions (COHRE)
83 rue de Montbrillant
1202 Geneva, Switzerland
Tel/Fax: +41 22 734 1028
E-mail: sleckie@ibm.net
http://www.cohre.org

COHRE, established in 1992, is an international, non-governmental human rights organisation committed to ensuring the full enjoyment of economic, social and cultural rights for everyone, everywhere, with a particular focus on ensuring the human right to adequate housing and preventing forced evictions.
Charter Committee on Poverty Issues (CCPI)
517 College Street, Ste. 408
Toronto, Ontario M6G 4A2, Canada
Tel: 800 263 1139
Fax: 800 944 1803
E-mail: CCPI@web.net
http://www.web.net/ccpi

CCPI is a national coalition founded in 1989 to bring together low-income activists and poverty law advocates for the purpose of assisting poor people in Canada to secure and assert their rights under Canadian and international human rights law.

Commonwealth Medical Association
BMA House
Tavistock Square
London WC1H 9JP, United Kingdom
Tel: +44 207 383 6095
Fax: +44 207 383 6195
E-mail: cma@commat.org
http://www.commat.org

The main objective of the Commonwealth Medical Association (CMA) is to strengthen the capacity of medical and other health professional associations in developing countries to promote the health and well-being of their communities. Having regard to the critical health issues involved, its activities are concerned mainly with women’s and youth health, sexual and reproductive health, and the ethical and human rights implications of providing health information and services in such countries.

EarthRights International
2012 Massachusetts Avenue NW
Washington DC 20036 USA
Tel: 202 466 5188
Fax: 202 466 5189
E-mail: eri@igc.org
http://www.earthrights.org

EarthRights International (ERI) is a nonprofit NGO that combines the power of law and the power of people in defence of human rights and
the environment. ERI works in Southeast Asia, where the exploitation of natural resources threatens indigenous cultures, local communities cannot obtain crucial information about environmental degradation, and governments and private businesses persecute environmentalists. Recognising that human rights and environmental abuses are often connected, ERI works to unite human rights and environmental activists and to provide them with the tools necessary to achieve sustainable change. ERI’s mission is to protect humans and their natural environment from abuses occurring in the name of development.

**FIAN (FoodFirst Information & Action Network)**

International Secretariat
P.O. Box 102243
D-69012 Heidelberg, Germany
Tel: + 49 6221 830620
Fax: +49 6221 830545
E-mail: fian@fian.org
http://www.fian.org

In a world of plenty, hunger and malnutrition indicate violations of human rights. FIAN (FoodFirst Information & Action Network) was the first international human rights organisation to work in the field of economic human rights as codified in international law. FIAN fights for the fundamental human right to feed oneself.

**Habitat International Coalition—Housing and Land Rights Committee**

HIC UN Liaison Office
8, rue Gustave Moynier
1202 Geneva, Switzerland
Tel/Fax: +41 22 738 8167
E-mail: hic_hrc@iprolink.ch

Housing and Land Rights Committee
B-28 Nizamuddin East
New Delhi- 110013 India
Tel/Fax: +91 11 462 8492
E-mail: hichrc@ndf.vsnl.net.in
Habitat International Coalition is a global alliance of 350 civil society organisations from 70 countries. Basing its work on the human rights to housing and land, HIC works through its three Committees: women and shelter, housing and land rights, and housing and environment. The Housing and Land Rights Committee (HLRC) is made up of 20 organisations from 16 countries. The HLRC membership consists primarily of community-based organisations. It focuses on campaigns for housing and land rights and against forced evictions. HLRC’s work proceeds from a holistic perspective that stresses the inviolability of gaining and retaining housing and land rights, through alliance building, exchange programmes, training, and use of the UN system, research and fact-finding.

**Human Rights Internet**
8 York Street, Suite 302
Ottawa, Ontario K1N 5S6 Canada
Tel.: 613 789 7407
Fax: 613 789 7414
E-mail: hri@hri.ca
http://www.hri.ca

Human Rights Internet (HRI) is a leader in the exchange of information within the worldwide human rights community. HRI communicates by phone, fax, mail and the Internet with more than 5,000 organisations and individuals. HRI promotes human rights education, stimulates research, encourages the sharing of information, and builds international solidarity among those committed to human rights principles. HRI’s primary role is to serve the information needs of international scholars, human rights activists, asylum lawyers, and other individuals and organisations via databases and an extensive documentation centre.

**Human Rights Watch**
350 Fifth Avenue, 34th Floor
New York, NY 10118-3299 USA
Tel: 212 290 4700
Fax: 212 736 1300
E-mail: hrwnyc@hrw.org
http://www.hrw.org
Through its reports and advocacy efforts, Human Rights Watch works to stop abuses wherever it uncovers them. Its timely, reliable disclosures have made it a vital source for anyone concerned with human rights. Its experienced staff of over 100 regional experts, lawyers and linguists helps explain why abuses break out and—most important—what must be done to stop them. Its goal is to make governments pay a heavy price in reputation and legitimacy if they violate the rights of their people.

Human Rights Information and Documentation Systems, International
48, chemin du Grand-Montfleury
CH-1290 Versoix, Switzerland
Tel. +41 22 755 5252
Fax +41 22 755 5260
E-mail: huridocs@comlink.org
http://www.huridocs.org

HURIDOCS is a global network of human rights organisations working to improve access to, and the dissemination of, information on human rights through more effective, appropriate and compatible methods and techniques of information handling. HURIDOCS functions as a decentralised network of organisations concerned with documentation and information. HURIDOCS encourages networking as the best way to deal with the increasing flow of human rights information. HURIDOCS focuses on developing tools such as standard formats and software for documentation and monitoring, conducting training activities, and providing advice and guidance to NGOs and other human rights organisations.

Institute for Food and Development Policy (Food First)
398 60th Street
Oakland, CA 94618 USA
Tel: 510 654 4400
Fax: 510 654 4551
E-mail: foodfirst@foodfirst.org
http://www.foodfirst.org

The Institute for Food and Development Policy, also known as Food First, is a member-supported, nonprofit think tank and education-for-action center. Its work highlights root causes and value-based solutions
to hunger and poverty around the world, with a commitment to establishing food as a fundamental human right.

**International Anti-Poverty Law Center (IAPLC)**
511 Avenue of the Americas PMB 5
New York, NY 10011 USA
Tel/Fax: 212 206 1458
E-Mail: iaplc@iaplc.org
http://www.iaplc.org

The IAPLC is a resource and advocacy center for international economic, social and cultural rights—the human rights that protect against deprivations of food, health, housing, education, and decent working conditions. The IAPLC works to make information available to the public, non-profit organisations, and others concerning international economic, social and cultural rights; advocates at the international level for increased understanding and implementation of international human rights; undertakes research into the relevant legal standards and facilitates scholarly discussion; and promotes the protection of human rights, especially economic, social and cultural rights, within the United States.

**International Centre for the Legal Protection of Human Rights (INTERIGHTS)**
Lancaster House
33 Islington High Street
London N1 9LH Great Britain
Tel: 00 0171 278 3230
Fax: 00 0171 278 4334
E-Mail: 101737.1436@compuserve.com
http://www.interights.org

INTERIGHTS was established in 1982 to provide leadership in the development of legal protection for human rights and freedoms through the effective use of international and comparative human rights law. INTERIGHTS helps judges, lawyers, practitioners, non-governmental organisations and victims with the practical application of international and comparative human rights law in national, regional and international courts and tribunals.
The International Confederation of Free Trade Unions (ICFTU) dedicates itself to the promotion and defence of human rights, especially as they relate to work. This includes the defence of trade union rights and actions designed to combat child labour, forced labour and discrimination at work, whether on gender, race, religion, political opinion or other grounds. It has three major regional organisations, the Asia and Pacific Regional Organisation, the African Regional Organisation, and the Inter-American Regional Organisation of Workers. It also maintains close ties with the European Trade Union Confederation and International Trade Secretariats, which link together national unions from a particular trade or industry at the international level.

The International Human Rights Internship Program (IHRIP) works to help strengthen the human rights movement by facilitating professional training projects for human rights organisations and activists in countries of the South as well as East Central Europe and the republics of the former Soviet Union. IHRIP has also recently established a Fellowship Program for experienced human rights activists in these same regions through which individuals with ten or more years’ human rights experience are able to take time off to reflect on and write about their experience. The Program is currently collaborating with the Asian Forum for Human Rights and Development to produce a training manual on economic, social and cultural rights activism and an educational video on the work of the UN Committee on Economic, Social and Cultural Rights. The manual and video will be available in mid-2000.
The International Labor Rights Fund, a nonprofit action and advocacy organisation, uses new and creative means to encourage enforcement of international labour rights. International labour rights are necessary for life and dignity. However, these international rights are violated in every part of the globe: women labour in sweatshop conditions at garment factories, children spend long hours working in poor conditions making products that are shipped to developed countries, men are forced to labour without pay, and women and men are killed, harassed, and fired for their efforts to join with other workers and speak out.

The International Commission of Jurists (ICJ) is an international non-governmental organisation based in Geneva. The essential mission of the ICJ is to promote the rule of law and the legal protection of all human rights. The ICJ is involved in standard-setting at the universal and regional level and securing the ratification and domestic implementation of human rights instruments. A special focus of the ICJ has been to promote the indivisibility, interdependence and interrelation of economic, social, cultural, civil and political rights under the rule of law. The ICJ has actively campaigned for the adoption of an Optional Protocol to the ICESCR, which would make it possible for individual and group complaints alleging violations of these rights to be submitted for examination by the UN Committee on Economic, Social and Cultural Rights. The ICJ organises seminars and workshops at the regional and national levels on all continents to enhance the protection of economic, social and cultural rights.
Lawyers Committee for Human Rights
333 Seventh Avenue, 13th Floor
New York, NY 10001
Tel: 212 845 5200
Fax: 212 845 5299
E-mail: lchrbin@lchr.org

Since 1978, the Lawyers Committee for Human Rights has worked to protect and promote fundamental human rights. Its work is impartial, holding all governments accountable to the standards affirmed in the International Bill of Human Rights. Its programs focus on building the legal institutions and structures that will guarantee human rights in the long term. Strengthening independent human rights advocacy at the local level is a key feature of its work.

National Anti-Poverty Organization
440-325 Dalhousie Street
Ottawa ON K1N 7G2 Canada
Tel: 613 789 0096
Fax: 613 789 0141
napo@web.net
http://www.napo-onap.ca

The goal of the National Anti-Poverty Organization (NAPO) is the elimination of poverty in Canada. The complete elimination of poverty will occur when all Canadians attain an adequate income, access to high-quality human services, autonomy and choice within their own households and lives, recognition of the contribution (paid or unpaid) made to the community, freedom from all forms of discrimination, and complete social and economic equality. NAPO undertakes broad activities to raise public awareness, conduct research, and work with local activists to strengthen national and local efforts to eliminate poverty.

Oxfam International
2nd Floor, Prama House,
267 Banbury Road
Oxford, OX2 7HT, United Kingdom
Tel: +44 1865 31 39 39
Fax: +44 1865 31 39 35
Oxfam International is an international group of independent non-governmental organisations dedicated to fighting poverty and related injustice around the world. The Oxfams work together internationally to achieve greater impact by their collective efforts.

The People’s Decade of Human Rights Education
526 West 111th Street
New York, NY 10025, USA
Tel: 1 212 749 3156
Fax: 1 212 666 6325
E-Mail: pdhre@igc.apc.org
http://www.pdhre.org

The People’s Decade of Human Rights Education (PDHRE-International) is a non-profit, international service organisation that works directly and indirectly with its network of affiliates — primarily women’s and social justice organisations — to develop and advance pedagogies for human rights education relevant to people’s daily lives in the context of their struggles for social and economic justice and democracy.

Rights & Democracy (International Centre for Human Rights and Democratic Development)
1001 de Maisonneuve Blvd. East
Suite 1100, Montreal, Quebec
Canada, H21 4P9
Tel: 514 283 6073
Fax: 514 283 3792
E-Mail: ichrdd@ichrdd.ca
http://www.ichrdd.ca

Rights & Democracy works with citizens’ groups and governments in Canada and abroad to promote human and democratic rights, as defined in the International Bill of Human Rights. It focuses on democratic development and justice, women’s rights, indigenous peoples’ rights, and globalisation. Rights & Democracy provides support to frontline human rights groups and works to mainstream human rights into international trade regimes.
Social Watch
E-mail: socwatch@chasque.apc.org
http://www.socwatch.org.uy/

Social Watch (Control Ciudadano) is a meeting point for citizen and civil organizations who care about social development and gender discrimination. It is about monitoring development policies that directly impact, positively or negatively, the situation of women and people living in poverty. And it is about influencing the outcome of policy decisions. Social Watch encourages networking. It assists groups through exchange of ideas, information, concerns, successful strategies. It collects, publishes and makes available through the Internet, local, national and regional reports.

Venezuelan Programme of Education and Action for Human Rights (Programa Venezolano de Educación-Acción en Derechos Humanos; PROVEA)
Apartado Postal 5156
Carmelitas 1010-A
Caracas, Venezuela
Tel: 58 2 862 1011 and 860 6669
Fax: 58 2 860 6669
E-mail: provea@derechos.org.ve
http://www.derechos.org.ve/ongs_ven/provea/

PROVEA is a nongovernmental organisation working for the promotion and defence of human rights, particularly economic, social, and cultural rights. It seeks to strengthen existing initiatives and to develop its own programmes on human rights education and defence.

Women, Law and Development International
1350 Connecticut Ave. NW Suite 407
Washington, DC 20036 USA
Tel: 202 463 7477
Fax: 202 463 7480
E-mail: wld@wld.org
http://www.wld.org

Women, Law and Development, International (WLDI) is a women’s human rights organisation. It is a non-profit, non-governmental
organisation in consultative status with the Economic and Social Council of the United Nations. WLDI works on several fronts, making important contributions to the global movement for women’s rights. Among its accomplishments, WLDI has organised a number of agenda-setting global and regional forums, launched independent regional women’s rights organisations across the globe, initiated and carried out participatory research projects on women’s human rights issues, and created innovative and practical strategy frameworks, “how-to” guides, case studies, fact sheets and other tools for advocacy.
ANNEX F

NGO Checklists for the Promotion and Defence of Economic, Social and Cultural Rights*

I. Checklist for NGO Participation in the Work of the CESCR

This checklist highlights steps that an NGO should consider when deciding whether (or how) to participate in the review of a State’s record under the International Covenant on Economic, Social and Cultural Rights. This rough guide does not cover every possible option or step, and the logical sequence in which an NGO pursues the suggested activities will vary from organisation to organisation. In the early stages of an NGO’s planning, its leaders should read Chapters 9, 10 and 11 of this Handbook, along with the CESCR’s General Comments, discussed in Chapter 10. The NGO should also seek advice from more experienced NGOs.

Many of the items in these checklists are described more fully in Chapters 9, 10 and 11. Refer to those chapters for additional information.

Most of the steps outlined in the following numbered points will apply no matter which UN Committee an NGO focuses on, but they are most relevant to the Committee on Economic, Social and Cultural Rights.

If you discover that the next time your country is scheduled to be reviewed by the CESCR is four or five years in the future, you may want to find out if the Committee on the Rights of the Child is reviewing your country’s record sooner. Many economic, social and cultural rights are contained in the Convention on the Rights of the Child. Or, you might contribute to the next State Party review by the CEDAW Committee. If your NGO has the capability, you could perhaps cover economic, social and cultural rights issues in all three committees. To learn what several UN bodies have said about a country’s human rights performance, search for annual copies of

* Allan McChesney, Justice and Democracy Consultants, Ottawa, Canada, March 1999 and June 2000.
1. Discover the month and year in which your State’s next periodic report is set to be reviewed by the CESCR. This can be learned by contacting the CESCR Secretariat (see Annex C) and by checking the CESCR agenda on the OHCHR website: http://www.unhchr.ch/.

2. Through the UN, a library, or your country’s government officials (probably an official in the foreign affairs department or justice ministry), obtain a copy of the previous reports submitted by your country to the UN under the International Covenant on Economic, Social and Cultural Rights.

3. Obtain a copy of the CESCR’s Concluding Observations and the Summary Records concerning those older State Party reports and the CESCR sessions that examined them.

4. Ask government officials about reports that they are preparing or have already sent to the CESCR or other UN bodies that review economic, social and cultural rights issues. If your government has recently ratified the Covenant, NGO representatives can ask when the first State Party report will be prepared.

5. Discover which NGOs, if any, participated in the previous CESCR review of your country. Contact those NGOs and attempt to learn from their experience and obtain copies of the documents they prepared for the earlier review. Perhaps you can co-operate with these NGOs in planning for the forthcoming review.

6. Normally, an NGO focuses on only one or two elements of the Covenant, both in its daily work and in its submissions to the UN. Check Annex E to see if an international NGO has expertise in areas that your NGO is interested in. That NGO may have publications or tips that will assist your group. (Remember, however, that these NGOs will generally not have “extra” resources; you will need to rely mostly on your own initiative.)
7. Try to learn about NGOs working in other countries on issues similar to those that concern you, and exchange advice and copies of related documents with them.

8. Contact relevant NGOs, teachers or professors in your own country to find out if they can co-operate in preparing information and questions to send to the CESCR. Relevant groups might include social justice organisations, environmental, development or consumers’ groups, women’s, workers’ or children’s rights organisations, religious bodies, and organisations of lawyers, teachers or other professionals.

9. Learn when your country sent (or will send) its periodic report to the UN for the scheduled review. Arrange to obtain a copy as soon as it is available. Although they might not prepare the report, the officials in your government’s Foreign Affairs/External Relations Department who handle relations with the UN will keep track of a report’s progress, and will have copies. The State Party’s report may also be posted on the website of the OHCHR.

10. Contact the CESCR Secretariat and arrange to receive any announcements or other communications issued by the CESCR that are relevant to the review of your country’s record.

11. Find out which CESCR member is designated as the Committee’s Rapporteur for your State Party and learn how to contact this individual.

12. From international NGOs or from NGOs in your own country, obtain examples of alternative/parallel/shadow reports that present information about Covenant violations.

13. Read all of the General Comments of the CESCR that are relevant to what you are working on.

14. Examine carefully the discussion of issues covered by the CESCR in past reviews of your country. Note especially any positive achievements that the State’s government has highlighted in its previous reports, any promises that it made, and any recommendations that the CESCR offered. Has the government lived up to its promises? Or has it reversed progressive accomplishments that it previously spoke of with pride? Have the Committee’s recommendations been followed?
15. Plan research to ensure that your facts are detailed and accurate concerning violations that you think have occurred. (See Checklists II and III below, and *Handbook* Chapters 3 and 5-8.)

16. Try to divide tasks logically among different NGOs, to make sure that you do not unnecessarily repeat work or omit important research and writing. For example, one group might focus on housing rights, another on poverty, and another on problems faced by refugees, immigrants and migrant workers. Inevitably there will be some overlap, but the main focus of each group will differ. For example, one group might concentrate on a particular geographic area where major problems have arisen.

17. Ensure that your NGO budgets for the extra financial, staff and volunteer resources that will be needed, probably for at least a year. Learn the estimated cost of one or two trips to Geneva for your NGO representatives, and forecast additional communication expenditures and travel costs for consultations within your country and internationally. Begin early to raise the necessary funds.

18. Together with NGO colleagues, prepare a proposed List of Issues concerning apparent violations of rights within your country. At an appropriate stage, share this list with the CESC, inviting Committee members to use it as one source of guidance when preparing the official List of Issues that the Committee will send to the State. The most appropriate time is usually at the Pre-Sessional Working Group meeting either six or twelve months prior to the session in which the State’s record is scheduled for review (see Chapter 10). Send a copy of your NGO’s suggested List of Issues (and other relevant documents) directly to the Country Rapporteur (see #11 above), in one of his or her preferred languages.

19. Under each heading in your NGO List of Issues, prepare specific questions that you think the CESC should ask your national government and perhaps the state or provincial governments as well. This List could be in a letter, or in a longer NGO document that is an “alternative” to the national government’s report. Remember that the CESC will arrange for the government to receive a copy of anything submitted in writing to the Committee about that country.
20. Compiling a “parallel”, “shadow”, or “alternative” report is a lengthy process. If you plan to submit one to the CESCR, start working on it approximately a year in advance of when you plan to send it.

21. The CESCR has limited time and its Secretariat has limited resources. To be most useful to the Committee, a parallel report should be of reasonable length and written in English, French or Spanish. The List of Issues should follow the order of the articles in the Covenant and contain specific, concrete questions under each heading. The report should also contain specific recommendations for appropriate changes in the State Party’s laws, policies and/or practices.

22. Provide a one-page summary of the issues and related questions contained in the parallel report. This will help the Committee, and it will act as a checklist for you. It will also assist your efforts to educate the media, government officials and the public.

23. Why not continue your co-operative efforts with other NGOs by submitting a joint report to the Committee? An effective way to present information to the CESCR is by means of a comprehensive but concise and polished document, submitted by several NGOs. A written report and/or an oral statement from several NGOs is likely to be more impressive than several unco-ordinated statements. A shared approach also reduces NGO costs.

24. Shortly before the CESCR session reviewing the State’s report, you will probably want to submit a short update on your country’s situation, supplementing your parallel report. Plan and assign the necessary staff time. The CESCR Secretariat prefers that such updates be sent at least three months in advance to provide enough time for translation.

25. Arrange workshops, conferences and publications in your country to discuss the Covenant, the State Party review process, the State’s report and any NGO parallel reports. You should do so both before and after the CESCR review of your country’s report.

26. Try to arrange for media coverage of the written and oral NGO submissions to the CESCR, the questioning of the State’s representatives by the CESCR, and the CESCR’s
Concluding Observations on the State’s compliance with (or violations of) the Covenant.

27. Try to arrange for parliamentary committees or human rights commissions to discuss the State Party review process, the State Party report, NGO parallel reports and the Concluding Observations issued by the CESCR.

28. Continue monitoring the outcome of any follow-up questions that the CESCR asks the government’s representatives, and verify whether the requested information is supplied to the CESCR.

29. In the years following the CESCR review, continue to monitor how well your country keeps its promises and obligations pertaining to the Covenant, and how faithfully it implements the CESCR’s recommendations for improvement. Report your findings to the CESCR.

30. If you have the time and resources, offer advice to NGOs in your own country or in other countries that may benefit from your experience.

II. Questioning State Parties: Specific Questions that May Help to Reveal Whether a State Is Complying with Its Obligations under the Covenant

To assess whether a State has fulfilled its obligations under the Covenant, NGOs and the CESCR must review evidence concerning the actions taken or not taken by the State to fix a problem. This may indicate a failure to meet its obligations. The problem could be, for example, that girls do not receive equal schooling opportunities or that a government has no plan for improving health care in the poorest regions, or that it does not enforce laws requiring safe workplaces for everyone. NGOs can assist by formulating specific questions designed to reveal whether the State:

1. Should have known that a problem existed which appears to violate a human rights obligation;

2. Consulted local people and national organisations to learn how to fix the problem;

3. Has set up a programme to deal with the problem;
4. Provides adequate resources to ensure that the programme can work;

5. Periodically reviews the programme and its successes or shortfalls;

6. Has revised or strengthened the programme to overcome any failings discovered;

7. Has considered or tried alternative ways of fixing the problem;

8. Has carried out studies to discover why the violation of human rights was allowed to occur;

9. Has determined whether or why particular disadvantaged groups were denied access to measures intended to prevent or fix the problem;

10. Has identified exactly which individuals or agencies are responsible for the apparent human rights infringement;

11. Offers direction and support for the individuals or agencies responsible for remedying the human rights infraction;

12. Seeks advice from NGOs, intergovernmental organisations and others that have expertise on how to implement remedies to meet the specific human rights obligation;

13. Sets targets and timetables that will help everyone concerned measure progress in correcting the problem.

The steps outlined above can help you to evaluate the State’s actions, whether you are focusing on the right to health, the right to education or any other human right. You can test these steps by applying them to issues such as the adequacy of food, housing or health care for the poorest people in your country or the availability of work or public transportation for persons with disabilities. Ideally, you should try to apply the set of questions to subject areas that your NGO already focuses on.

III. Sources for NGO Fact-Finding

To describe adequately all of the steps and precautions that an NGO or individual human rights advocates should take when conducting human rights “fact-finding” would fill an entire additional guidebook.
A few tips are offered above on what kinds of information human rights defenders could be looking for and recording. Below, one can find a brief list of possible sources of relevant data.

1. Newspapers and magazines in printed form and on the Internet.

2. Annual and special reports of government departments and agencies.

3. Reports of parliamentary, legislative and congressional committees.

4. Reports of many United Nations agencies (e.g. UNICEF, UNDP and the WHO) concerning each country.

5. UN human rights reports summarised in an annual publication called *For the Record* (http://www.hri.ca/fortherecord1999).

6. Reports of surveys of people from disadvantaged groups who are affected by negative changes in government programmes or by failures to implement positive programmes.

7. Reports of surveys of people who are harmed by the failure of international or national agencies to follow their own rules or legislation.

8. Analysis of legislation and of pending legislation (draft laws or bills) that appear to violate obligations under the Covenant.


10. Annual publications by the United Nations, the World Bank and other international bodies that review the record of development “progress” in every country.

11. Annual or special publications of NGOs and non-governmental networks such as Human Rights Watch, the International Confederation of Free Trade Unions, the International Commission of Jurists, the Lawyers Committee for Human Rights and Social Watch.
Remember that some day in the future you may want to prove that what you are saying now about a State’s human rights performance is true. You should make careful notes concerning any documents or websites from which you draw evidence, such as the time (day, month, year) that the information was recorded, in addition to the name of the document or website. Also check closely to see whether published statistics that you review are based on scientific surveys or are merely estimates or forecasts based on someone’s assumptions.
ANNEX G

Using the Internet for Human Rights Work

Electronic Mail

Electronic mail (e-mail) is perhaps the most common way for individuals and organisations to communicate using the Internet. Most messages consist of just text, but more complicated messages and computer files of almost any kind can be sent along with the e-mail message as attachments. E-mail is primarily a means of communicating from person to person, but it is often employed as a quick and efficient way to send out notices, human rights alerts, or other information to groups and organisations. In many countries, e-mail is also less expensive than using regular mail, telephone or fax services for local or long distance communication.

Although widely used by human rights advocates and NGOs, e-mail is not secure from prying eyes. Any e-mail communication makes a number of stops along its route from the sending computer to the receiving computer across the Internet; a message is vulnerable to interception at any of these points. The best rule of thumb to follow when composing an e-mail message that is not properly disguised or "encrypted" (encryption is discussed later in this Annex) is to treat it like a postcard; don’t write anything that you do not want somebody else to see.

Many organisations and individuals engaged in human rights activities maintain e-mail list services (listservs) established to assist in

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Beware of Viruses

When receiving messages via e-mail, and, in fact, when using any method of obtaining documents over the Internet, remember to be alert for "computer viruses" that can damage your computer’s files or erase information stored in your computer. Viruses can be transmitted as e-mail attachments, so never open an attachment unless you know what it is. In addition, you should make sure that your e-mail software does not automatically open attachments when the message is read.
communicating with other individuals and organisations. Those who subscribe to a listserv are placed on an electronic list; those on the list receive messages relevant to their shared interests. Some listserv groups also encourage discussions among the members. Addresses and subscription instructions for a number of listservs on human rights topics may be found in the publication, *Getting Online for Human Rights* by Stephen A. Hansen, available on the AAAS website at http://shr.aaas.org/online/cover.htm).

### The World Wide Web

The World Wide Web is a vast network of interconnected websites. The tremendous popularity of the Web and its growing accessibility make it a great tool for human rights workers who are searching for documents and resources or who are trying to communicate with the public. NGOs doing research at a website can often easily jump from one site to another by using links found on the pages at the first site. NGOs doing research on the Web can “browse” or “surf” from one website to another relevant site by clicking on links that are embedded in the Web pages.

Almost all major human rights NGOs (and many smaller ones) have websites explaining who they are and what they do. Many also contain related documents and links to other sites. A number of organisations and institutions with websites relating to economic, social and cultural rights are listed in Annexes C and E.

In addition to the UN human rights website (http://www.unhchr.ch), there are a few NGO and academic websites exclusively dedicated to indexing human rights data, including other human rights websites. Examples of such useful sources are the AAAS Directory of Human Rights Resources on the Internet (http://www.shr.aaas.org) and the websites of Human Rights Internet (http://www.hri.ca), the University of Minnesota Human Rights Library (http://www1.umn.edu/humanrts), and the Project Diana Online Human Rights Archive (http://diana.law.yale.edu/). Each of these has links and a “search” feature to help you to locate other pertinent websites.

It is not always easy to find specific pieces of information on the Internet. There are many different websites and search engines (services that index web pages to create a searchable database) one can use to find human rights information. Some are much better at locating human rights data than others. To obtain the best results you should try a variety of different options.
Because the Web contains data from so many different sources, it is hard sometimes to decide if information is trustworthy. It pays to be cautious by cross-checking sources, and verifying that a piece of information is a) truthful and b) coming from the person whom you think it is coming from. Verification can also be achieved through the use of “digital signatures”, which are discussed with encryption later in this section.

By publishing human rights information on the Internet, an NGO can make it accessible to people around the globe. It can be relatively simple for an NGO to create its own website. (See “A Beginner’s Guide to HTML” at http://www.ncsa.uiuc.edu/General/Internet/WWW/. HTML is the format used for most documents on the World Wide Web.) The NGO may need the help of an Internet Service Provider (ISP) or a larger NGO to act as a host for the website. Once a website is set up, posting information on it should be treated with the same seriousness and care given to printed publications. Websites are vulnerable to attack by individuals or groups who may try to tamper with the site’s content or with the computer system that hosts it. Websites should be as secure as possible and should make use of technologies like digital signatures and “digital fingerprints” (described below) that can help other users to determine that your website and the information published on it are valid.

Protecting Yourself and Others When Recording and Sending Information

It is important to be careful when transmitting data via the Internet, but that is not the only time when human rights defenders may need to be cautious about recording or sending information. When reporting on human rights abuses in certain countries, it is wise to disguise the identity of the persons or groups who sent the information if openly identifying them might make them a target for reprisals. In such situations, human rights defenders should exercise caution when using the telephone, fax, telex or e-mail (which are not hard to intercept), or when making handwritten, typed, or computer-stored notes—even lists of names. When storing information in a notebook, telephone, computer or diskette, it is advisable to use passwords, memorised codes, encryption, or other ways of disguising data.
Encryption

There are a variety of ways in which people working in human rights through the Internet can protect their data, their privacy, and, if necessary, their anonymity. Most of the protection schemes are based on encryption. Encryption uses complex mathematics to scramble data so that only someone with the right mathematical “key” can unscramble it.

Files can be encrypted locally on your computer to make them inaccessible to invaders. E-mail messages can be encrypted as well. Encryption techniques can also be used to digitally sign and verify documents. Even digital phone calls can be encrypted. A digital signature is a series of letters or numbers added to a message or file that identify the author and indicate whether anyone has altered the contents. It works like an old-fashioned wax seal on a letter.

A software tool called Pretty Good Privacy (PGP) is widely used by human rights organisations to encrypt their e-mail communications. PGP allows individuals to communicate with some assurance that their messages cannot be read by others who want to intercept their words. Although PGP is sold to businesses, it is available free of charge to individuals who do not intend to use it for commercial purposes. PGP uses a “private key” (a long set of randomly chosen letters or numbers known by only one individual) and a “public key” (a related series of characters that can be shared). When used in combination, these two mathematically linked keys allow parties to carry on secure communications over the Internet. Some commercial products use similar techniques to allow secure communications via cell phones and other devices.

PGP is easy to use and enables both parties to the electronic conversation to be confident that the person with whom they are exchanging messages is in fact the person with whom they intend to be communicating, and not an impostor. Although PGP is a reasonably safe form of communication when used properly, you can improve security by changing the public and private keys frequently. You should also take all necessary measures to keep the computers and disks you use safe from prying eyes. PGP can be downloaded free from the international PGP home page, at http://www.pgpi.com/.

Before attempting to use encryption, you should become familiar with the law governing its use in your country. Although only a few nations actually restrict the free use of encryption, many control its exportation. For some guidance, consult “Cryptography and Liberty 1999”, a survey by the Electronic Privacy Information Center, which analyses the encryption policies of countries all over the world. The
survey is available from the Global Internet Liberty Campaign at http://www.gilc.org/.

Using encryption software such as PGP will allow you to send messages with much more privacy, but no electronic form of communication can guarantee complete security. You should therefore consider your own circumstances carefully when weighing the advantages and potential limitations of e-mail.

Informal "Remailing" Systems

Some NGOS set up their own informal “remailing” systems. For example, an NGO reporting human rights violations to the United Nations or an international NGO might decide that it is wiser not to do so through a direct connection. A tactic used by some NGOS when communicating about sensitive matters is to route such messages through “neutral” intermediaries. For example, an NGO volunteer in Country A sends a coded/encrypted message about violations in Country A to a friend who works for a company in Country B that is not openly associated with human rights activities. The friend in Country B transfers the original message to an international NGO in Country C. If a message is coded so that no one without the correct “key” can read it, why bother to transmit it by such an elaborate route? Because in some countries, a person might be arrested just for communicating with a human rights NGO or with a UN human rights officer.

Maintaining Anonymity on the World Wide Web

Although using the Web may seem like an anonymous activity, it is easy for an interested party to find out which websites and web pages you are viewing. When you click on a link that you find on a web page, you are asking a computer somewhere on the Internet to send you information about this page. You may be able to see the page, but the computer that serves the page to you also learns some things about you. Computers that interact with you over the Internet can automatically learn things about you that might allow someone to identify who you are and where your computer is. Fortunately, there are services available that allow you to do research on the Internet anonymously. Such services will retrieve pages from the Web for you so that your computer is never in direct contact with the website you are interested in examining.

There are similar services for sending e-mail anonymously. By pre-arrangement, these anonymous “remailer” services will take an e-mail message from you, along with the address of the intended recipient. The remailer will then strip out any information that would make it possible to identify you. The message is next forwarded to the
final recipient. Two reputable providers of tools for anonymous e-mail web browsing are Anonymizer (http://www.anonymizer.com) and Zero-Knowledge (http://www.zero-knowledge.com).

When doing research on the Internet, you may want to set up your browsing software to refuse “cookies”. Cookies are small files planted on your computer by some websites when you visit them. Cookies store information about you that can then be communicated back to the website. This information can tell someone about the pages you visited, the links you followed, and how much time you spent at a website. Cookies can also serve a useful purpose by allowing your computer to use a particular website more efficiently. Refusing to accept cookies may interfere with the proper functioning of some websites. To learn how to block cookies you can consult the operating instructions for your web browser (e.g. Netscape or Internet Explorer).

The general guidelines given here are meant to help you understand a few of the issues involved in using the Internet for human rights work. Ideally, an NGO planning to set up a security system for its Internet-based work should speak in person to someone from another NGO who already has experience with such matters.

For additional guidance on using the Internet, a good resource to consult is Getting Online for Human Rights: Frequently Asked Questions and Answers about Using the Internet in Human Rights Work by Stephen A. Hansen (1998). This resource can be read online at http://shr.aaas.org/online/cover.htm or ordered from the AAAS Science and Human Rights Program.
ANNEX H

Fictional Case Studies on Economic, Social and Cultural Rights*

Fabriqa’s Story

Fabriqa and her family live in an Asian country. To find paid work to support herself and her daughter, Fabriqa went to a factory in the country’s Special Economic Zone (SEZ). Fabriqa’s small child is looked after by her parents, far away in her home village. She sees her daughter once or twice a year. Fabriqa sends as much money to her parents as she can, although this is not a large amount because her earnings are low.

The SEZ was set up by the government to attract corporations making products for export. To entice these companies, the government decided that employment and environmental laws that apply in other parts of the country do not need to be followed in the SEZ. For instance, businesses that operate in the SEZ are not required to pay their employees a minimum level of wages set by law. Nor are trade unions allowed to organise.

The factory where Fabriqa assembles small electronic parts is staffed almost entirely by women. The staff is required to work 12-14 hours per day, six days per week. The work is fast and hot, but there is no air conditioning, and the fans made available provide very poor air circulation. There are almost no breaks or pauses allowed during the working day, and the employees are locked into the building during their shift.

The factory is visited occasionally by a government health and safety inspector, but he ignores the abysmal working conditions. The factory owners do not ignore him, however. In fact, the factory manager gives the inspector a small cash gift every month, in exchange

* Allan McChesney, Justice and Democracy Consultants, Ottawa Canada, 1998 and 1999. The following stories can be used as teaching and training exercises to improve understanding of economic, social and cultural rights and violations. Anyone who uses one of these scenarios in teaching or training is asked to give written credit to the author and to this publication.
for his silence. The factory is owned by a business from that country, taking advantage of the easier laws and slack enforcement in the SEZ.

Consider the following elements:

1. What human rights issues do you see in the case?

2. Where do you find international legal guarantees for these rights? What kind of implementation systems may be available?

3. Is Fabriqa in a position to assert her rights? If so, which channels could she use?

4. Are there NGOs that can assist Fabriqa? If so, what working methods can/do they use?

Flora’s Story

Flora lives in a Latin American country. She works near the village where she grew up and has an enjoyable working situation. Flora attended a local agricultural college and still studies as an “apprentice” with a village elder to learn about plants that grow in the local rainforest: food plants and those that can provide medicine. The national education system allowed her to study what she was most interested in, and she was able to find a good job in her chosen field.

Flora works for a not-for-profit research park that studies and preserves local plants, and shares knowledge of these plants with students and other visitors. As part of her work, Flora co-operates with indigenous groups to preserve traditional medicinal plants and wild food crops, as well as wisdom about them. (In this work the researchers also obtain assistance from international environmental NGOs).

With the help of a few local and international development aid organisations, Flora and the people she works with have set up an institute that studies traditional knowledge of plants and conducts research and education on them. Flora and her co-workers once shared their knowledge freely. But some foreign scientists who took away knowledge of traditional medicine now claim that their corporations own the exclusive rights to sell drugs based on a local medicinal plants. The foreign corporation gives no credit or money to the institute or to the tribal people who were the original source of the knowledge.
Another problem that Flora and her co-workers deal with are cattle ranchers who want to clear part of the forest traditionally used by her tribal group. A high percentage of the tribe’s livelihood comes from the animals and plants of the rainforest, supplemented by small farms. Flora’s people do not have registered legal title to their land. Most of them believe that nature belongs to the Creator and that it must be shared and not “owned”. The country’s laws permit the ranchers to claim tribal land as their own. The ranchers can become official landowners of an area simply by occupying it, paying a fee to the government, and filing the correct papers in the Land Office.

At the same time, with the help of an international aid agency, the government and some local companies want to use another part of the rainforest as a nature park. Some indigenous people might be employed showing animals and plants to tourists, but more would lose access to their traditional ways of life, and many would be excluded from traditional areas. The tribespeople were not consulted before this “ecotourism” plan was begun.

Consider the following elements:

1. What human rights issues do you see in the case?

2. Where do you find international legal guarantees for these rights? What kind of implementation systems may be available?

3. Are Flora and the indigenous groups in a position to assert their rights? If so, which channels could they use?

4. Are there NGOs that can assist Flora? If so, what working methods can/do they use?

Petrolo’s Story

Petrolo lives in an African country. He needed to move away from his family to obtain work. He has no complaints about his job at the State Oil Company. He makes good wages and has decent working hours. But many who live in communities near the oil fields and near the refinery do have complaints.

In order to increase oil production, the government forced many farmers to move from their lands, and has not provided adequate
housing in the areas to which they were moved. The farmers are now in an area of less fertile land, where it is harder to grow crops.

The main refinery is in the heart of a town and beside the sea. There has been continuing air and water pollution from the refinery, including a very large oil spill recently. The company and the government did not inform the media or the public about the spill until a day after the event. The pollution has forced some people from their homes, and so far they have received no offer of compensation. The recent spill has poisoned a local fishing ground that provided food and income for generations.

Consider the following elements:

1. What kind of human rights issues do you see in the case?
2. Where do you find legal guarantees for these rights? What kind of implementation systems may be available?
3. Are the people in the oil-producing region in a position to assert their rights? If so, which channels could they use?
4. Are there NGOs that can assist them? If so, which working methods might they use?
ANNEX I

International Covenant on Economic, Social and Cultural Rights

Preamble

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

Part I

Article 1

1. All peoples have the right of self-determination. By virtue of that
right they freely determine their political status and freely pursue their economic, social and cultural development.

2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.

3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

**Part II**

**Article 2**

1. Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.

2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

**Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

**Article 4**

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with
the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

Part III

Article 6

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

Article 7

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

   (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not
inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

Article 8

1. The States Parties to the present Covenant undertake to ensure:

   (a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

   (b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

   (c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

   (d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the
International Covenant on Economic, Social and Cultural Rights

International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

Article 9

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

Article 10

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 11

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take,
individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

Article 12

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;

(b) The improvement of all aspects of environmental and industrial hygiene;

(c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;

(d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

Article 13

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.
2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

   (a) Primary education shall be compulsory and available free to all;

   (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

   (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

   (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

   (e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph I of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 14

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation,
within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

Article 15

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

Part IV

Article 16

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the Economic and Social Council for consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these
specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

**Article 17**

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

**Article 18**

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

**Article 19**

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

**Article 20**

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such
general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

Article 21

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

Article 22

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

Article 23

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

Article 24

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

Article 25

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.
Part V

Article 26

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

Article 27

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.

2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

Article 28

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

Article 29

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the
proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

Article 30

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph I of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

Article 31

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.