

Paving Pathways for Justice & Accountability:

Human Rights Tools for Diaspora Communities

January 2014



About The Advocates for Human Rights

The mission of The Advocates for Human Rights is to implement international human rights standards to promote civil society and reinforce the rule of law. By involving volunteers in research, education, and advocacy, we build broad constituencies in the United States and select global communities.

The Advocates:

- Investigates and exposes human rights violations internationally and in the United States;
- Represents immigrants and refugees who are victims of human rights abuses;
- Trains and assists groups that protect human rights; and
- Works through education and advocacy to engage the public, policy-makers and children about human rights and cultural understanding.

The Advocates was founded in 1983 by a group of Minnesota lawyers who recognized the community's unique spirit of social justice as an opportunity to promote and protect human rights in the United States and around the world. The organization has produced more than 50 reports documenting human rights practices in more than 25 countries, and works with partners overseas and in the United States to restore and protect human rights. The Advocates for Human Rights hold Special Consultative Status with the United Nations and Observer Status with the African Commission on Human and Peoples' Rights.

The Advocates for Human Rights
330 Second Avenue South, Suite 800
Minneapolis, MN 55401-2211
612-341-3302
hrights@advrights.org
www.advrights.org

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The Advocates for Human Rights dedicates this manual to all human rights defenders—especially those in the diaspora—who work to protect and uphold human rights throughout the world.

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Chapter 1. Introduction



A. Diaspora Communities and Human Rights

The Migration Policy Institute defines the term “diaspora” as “emigrants and their descendants who live outside the country of their birth or ancestry . . . yet still maintain . . . ties to their countries of origin.”¹

Human rights advocacy takes many forms, and human rights activists can be found in every corner of the world. With advancements in technology and communication, activists have formed strong international networks and are often able to report many of the worst human rights violations as they occur. These advancements have changed the way human rights organizations work and provide access to information necessary for the broader community to engage in human rights advocacy.

¹ International Organization for Migration and Migration Policy Institute, *Developing a Roadmap for Engaging Diasporas in Development* (Washington DC and Geneva: IOM and MPI, 2012), 15. Also available online at <http://www.migrationpolicy.org/pubs/thediasporahandbook.pdf>.

These advancements also allow diaspora communities to maintain a foot in two worlds. Diaspora community members influence the politics, economies, and often the human rights cultures in their country of origin as well as their new country. Diasporans influence development and the basic living conditions of millions of people by sending remittances to support relatives and friends. In this way diaspora groups directly influence the economic and social rights, such as the right to food, housing, health, and education, of people around the globe.

Many individuals in diaspora communities also influence human rights through communication technology, philanthropy, capacity-building and brain gain, and direct political advocacy. Some diaspora members make long-term commitments to building schools, improving access to healthcare, setting up legal aid programs, or offering other direct services to help people from their home countries recover from conflict or environmental disasters. Further, the political power of the diaspora is evident in the growing number of politicians who include visiting and speaking with diaspora communities as part of their campaigns.

Many migrants—refugees and asylum seekers in particular—leave their homes because of human rights concerns, and many were political and human rights activists in their home countries. Individuals bring these experiences to their new country; many become advocates for human rights in their country of origin from their new home base. Because they have regular contact with friends and family, members of diaspora communities are often the first to know about and report on human rights abuses on the ground in their country of origin. Diaspora civil society organizations are in a unique position to document human rights abuses, influence policy, and advocate on behalf of the people left behind who may be suffering human rights violations.

In the diaspora, many community groups or “mutual assistance associations” have been created to help other diaspora community members. These organizations work to meet a wide variety of needs in their community, from assisting with literacy or language learning to developing new skills through employment training. Some diaspora community groups have set up legal clinics to provide immigration or other kinds of legal assistance. Many diaspora community groups also regularly share and discuss information about issues in their home country through diaspora media outlets, email listserves, telephone trees, community meetings, and town hall forums.

Diaspora communities can also have a powerful impact on the human rights culture of their new country. As engaged participants in debates on immigration, language rights, discrimination, the right to work, freedom of movement, as well as the right to culture and free exercise of religion, diaspora communities challenge host countries to examine their own human rights practices. Diaspora communities also raise awareness of human rights problems in the broader community, creating new allies for protection of human rights.

Diaspora communities have an increasingly important global role to play as a bridge between individuals, governments, and international legal and political mechanisms. In particular, diaspora community members are in a unique position to raise awareness about, influence policy on, and advocate for individual survivors of human rights abuses. In order to bring about systems change and real human rights reforms, civil society needs to devote sustained attention to implementation—from within the country, as well from without. Diaspora communities are a critical link in changing social institutions and structures to hold governments accountable and promote the full realization of human rights.

B. The Advocates for Human Rights’ Work with Diaspora Communities

The Advocates for Human Rights works closely with diaspora populations. While The Advocates is an international human rights organization, it is based in Minnesota—a state that is home to numerous diaspora communities from around the globe, including Cambodia, Ethiopia, Eritrea, Liberia, Mexico, Russia, Somalia, Tibet, Vietnam, and Laos, as well as numerous other African, Asian, Latin American, and European countries.

As a provider of free legal services, The Advocates is often the first connection that asylum seekers have to their new community in the United States. The Advocates brings individuals and organizations together to help new arrivals become a unified force in addressing common issues, such as working at the state and federal levels to make the immigration process more humane and accessible.

Because of this special relationship, numerous diaspora communities have requested assistance from The Advocates in documenting human rights violations “back home.” The Advocates’ work with diaspora communities through the *Liberian Truth and Reconciliation Commission Diaspora Project* and the *Oromo Project* proved the significance of involving these individuals in work to hold governments accountable and affect human rights in their home countries.

Similarly, The Advocates worked with diaspora groups in the United States to document their experiences after the 9/11/2001 attacks. The report *Voices from Silence* is an important example of how diaspora groups can have a powerful impact on the human rights culture in their adopted country.

Yet the role that diaspora communities can play in improving human rights around the world has been largely overlooked in the human rights field. With this project, The Advocates aims to create tools to help tap the underexplored resources of diaspora involvement in human rights.

C. What Is the Purpose of This Manual?

The purpose of this manual is to provide practical tools and step-by-step guidance for diaspora community groups and individuals who want to use human rights monitoring, documentation, and advocacy in their work to change policy and improve human rights conditions in their countries of origin. The contents of this manual have been shaped by the requests for assistance and guidance that The Advocates routinely receives from diaspora communities, as well as by input from surveys conducted with a wide variety of diaspora communities.

This manual is not just for lawyers or seasoned human rights activists; diaspora advocates of all backgrounds and experiences can use these tools and resources to promote human rights in their country of origin. From framing an issue in terms of internationally recognized human rights standards to submitting a detailed complaint to an international human rights body, diaspora advocates can use this manual to plan and implement this work. The manual is designed to aid advocates undertaking a variety of activities—from the relatively simple to the more complex. With background information, key questions to consider, case examples, and practitioner’s tips, this manual provides tools to combat human rights abuses and change social institutions and structures to promote the full realization of human rights.

The overarching goal of this manual is to facilitate the inclusion of diaspora voices in efforts to hold governments accountable for human rights. While the tools and resources presented in this manual were specifically created for use by diaspora communities to use in human rights work, they should not be seen as relevant only to



A member of the Liberian Women's Initiative of Minnesota testifying at the first ever public hearings of a truth commission held in a diaspora venue, the Diaspora Hearings of the Liberia Truth and Reconciliation Commission, at Hamline University in St. Paul, Minnesota, in June 2008.

diaspora communities. This manual provides a full menu of useful tools that are grounded in the daily work of human rights defenders like The Advocates for Human Rights. We hope that this manual will also benefit and be used by human rights defenders and civil society organizations throughout the world.

D. How Is the Manual Structured?

The manual contains a background section on human rights and five practical sections focused in turn on monitoring, documentation, and advocacy. The background section is a brief primer on human rights and their application. The practice-oriented sections help advocates to do the following:

- *Monitor*: identify ongoing human rights abuses and collect the information advocates need about these issues;
- *Document*: analyze, present that information, and make recommendations within the framework of international human rights standards;
- *Advocate*: choose and implement a strategy to bring the lived reality of people in the home country closer to the ideals proclaimed by international human rights treaties, including through advocacy at international and regional human rights mechanisms;
- *Address Impunity and Accountability*: identify strategies and legal mechanisms in the country of origin, in the country of residence, and in international mechanisms for holding perpetrators and governments accountable for human rights violations; and
- *Build Capacity to Improve Human Rights*: develop a better understanding of the international human rights system, identify strategies for applying a human rights framework, and develop competence in setting up and effectively running an organization in safety and security.

Chapter 2. Human Rights Background



A. What Are Human Rights?

The modern human rights era can be traced to struggles to end slavery, genocide, discrimination, and government oppression. After World War I, many scholars, activists, and some national leaders called for a declaration and accompanying international system—the League of Nations—to protect the most basic fundamental rights and human freedoms. Atrocities during World War II made clear that previous efforts to secure individual rights and curtail the power of governments to violate these rights were inadequate. The time was ripe for adoption of a globally recognized instrument that enshrined these values. Thus was born the Universal Declaration of Human Rights (UDHR) as part of the emergence of the United Nations (UN).

The UDHR was the first international document that spelled out the “basic civil, political, economic, social and cultural rights that all human beings should enjoy.”² The UN General Assembly ratified the declaration unanimously on December 10, 1948.³ The vote to adopt the UDHR was considered a triumph as it unified diverse nations and conflicting political regimes.

The UDHR was not legally binding, though it carried great moral weight. In order to give the human rights listed in the UDHR the force of law, the United Nations drafted two covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). The division of rights between these two treaties is artificial, a reflection of the global ideological divide during the Cold War. Though politics prevented the creation of a unified treaty, the two covenants are interrelated, and the rights contained in one covenant are necessary to the fulfillment of the rights contained in the other. Together, the UDHR, ICCPR, and ICESCR are known as the International Bill of Human Rights. They contain a comprehensive list of human rights that governments must respect and promote, including:

- Right to life;
- Equality;
- Security of person;
- Freedom from slavery;
- Freedom from arbitrary arrest/detention;
- Freedom of movement and residence;
- Due process of law;
- Freedom of opinion and expression;
- Freedom of association and assembly;
- Right to safe and healthy working conditions;
- Right to form trade unions and to strike;
- Right to adequate food, clothing, and housing;
- Right to education; and
- Right to health.

B. Why Are Human Rights Important?

Human rights reflect the minimum standards necessary for people to live with dignity and equality. Human rights give people the freedom to choose how they live, how they express themselves, and what kind of government they want to support, among many other things. Human rights also guarantee people the means necessary to satisfy their basic needs, such as food, housing, and education, so they can take full advantage of all opportunities. Finally, by guaranteeing life, liberty, and security, human rights protect people against abuse by individuals and groups who are more powerful. According to the United Nations, human rights:

*Ensure that a human being will be able to fully develop and use human qualities such as intelligence, talent, and conscience and satisfy his or her spiritual and other needs.*⁴

² Office of the High Commissioner for Human Rights (OHCHR), “International Human Rights Law,” accessed Jan. 13, 2014, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/InternationalLaw.aspx>.

³ The 58-member General Assembly unanimously ratified the UDHR, with eight abstentions. United Nations, “A United Nations Priority,” accessed Jan. 13, 2014, <http://www.un.org/rights/HRToday/declar.htm>.

⁴ UN CyberSchoolBus, “Understanding Human Rights,” accessed Jan. 13, 2014, <http://www.un.org/cyberschoolbus/humanrights/about/understanding.asp>.

Human rights are not just theoretical; they are recognized standards to which governments are to be held accountable.⁵ There are five basic tenets underlying human rights as they apply to all people. Human rights are:

- **Universal** in that they belong to all people equally regardless of status. All people are born free and equal in dignity and rights.
- **Inalienable** in that they may not be taken away or transferred. People still have human rights even when their governments violate those rights.
- **Interconnected** because the fulfillment or violation of one right affects the fulfillment of all other rights.
- **Indivisible** as no right can be treated in isolation. No one right is more important than another.
- **Non-discriminatory** in that human rights should be respected without distinction, exclusion, restriction, or preference based on race, color, age, national or ethnic origin, language, religion, sex, or any other status, which has the purpose or effect of impairing the enjoyment of human rights and fundamental freedoms.⁶

C. Who Is Responsible for Upholding Human Rights?

Governments

Under human rights treaties, governments have primary responsibility for protecting and promoting human rights. But governments are not solely responsible for ensuring human rights. The UDHR states:

*Every individual and every organ of society ... shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance.*⁷

This provision means that not only the government, but also businesses, civil society organizations, and individuals are responsible for promoting and respecting human rights.

When a government ratifies a human rights treaty, it assumes a legal obligation to respect, protect, and fulfill the rights contained in the treaty. Governments are obligated to make sure that human rights are protected by both preventing human rights violations against people within their territories and providing effective remedies for those whose rights are violated.⁸

⁵ U.S. Human Rights Fund, *Perfecting Our Union: Human Rights Success Stories from Across the United States* (New York: U.S. Human Rights Fund Public Interest Projects, March 2010), 6. Also available online at <http://www.justdetention.org/pdf/ushumanrightsfund.pdf>.

⁶ The Advocates for Human Rights, *Human Rights Toolkit* (Minneapolis, MN: The Advocates for Human Rights 2011), 4. Also available online at http://discoverhumanrights.org/uploads/human_rights_toolkit_final_2.pdf.

⁷ UN General Assembly, Universal Declaration of Human Rights, 1948, Preamble.

⁸ The Advocates for Human Rights, *Human Rights Toolkit*, *supra* note 6, at 5.

Government parties to a treaty must:

RESPECT

Governments must not curtail the scope of a right or interfere with people exercising their rights.

GOVERNMENTS CAN RESPECT HUMAN RIGHTS BY:

- creating constitutional guarantees of human rights;
- refraining from limiting individual freedom unless absolutely necessary for the well-being of society;
- providing ways for people who have suffered human rights abuses by the government to seek legal remedies from domestic and international courts; and
- ratifying and implementing human rights treaties.

PROTECT

Governments must prevent private actors from violating the rights of others.

GOVERNMENTS CAN PROTECT HUMAN RIGHTS BY:

- passing laws that prohibit individuals from committing human rights violations;
- prosecuting or pursuing civil actions for crimes and other violations, such as domestic violence, hazardous work conditions, and discrimination;
- educating people about human rights and the importance of respecting the human rights of others; and
- cooperating with the international community in preventing and prosecuting crimes against humanity and other violations.

FULFILL

Governments must take positive action to facilitate the enjoyment of basic human rights.

GOVERNMENTS CAN FULFILL HUMAN RIGHTS BY:

- providing free, high-quality public education;
- creating a public defender service to provide indigent people access to lawyers;
- supporting civil society organizations and public participation in order to encourage freedom of expression and association;
- assisting those people in need by through funding of social service programs; and
- funding public education campaigns on the right to vote.⁹

International Human Rights System

The international human rights system, a network of human rights treaties and standards created and monitored by international and regional human rights bodies, provides advocates with many avenues for improving human rights conditions. Where governments resist or ignore one means of human rights enforcement, advocates can encourage or compel compliance through other mechanisms. Advocates can also use international human rights decisions and recommendations as part of their education and advocacy strategies.

United Nations

The United Nations is a global organization made up of almost every country in the world. The United Nations promotes and protects human rights through several key human rights bodies:

- **Human Rights Council.** The UN Charter called for the creation of an inter-governmental body, which is today called the Human Rights Council, responsible for strengthening the promotion and protection of human rights worldwide. The Human Rights Council consists of 47 UN member countries that meet regularly to conduct a Universal Periodic Review of human rights in all countries around the world, to address situations of human rights violations, to receive complaints, and to make recommendations on how to improve the fulfillment of human rights. Through the **Special Procedures of the Human**



An interactive dialogue during the Universal Periodic Review

⁹ The Advocates for Human Rights, *Human Rights Toolkit*, supra note 6, at 7.

Rights Council, independent experts hold mandates to examine, monitor, advise about, and publicly report on either a human rights situation in a specific country or a thematic human rights issue.

- **Treaty Monitoring Bodies.** There are nine core international human rights treaties. Each treaty establishes a committee of experts to monitor implementation of the treaty provisions by countries that have ratified the treaty. Some treaty bodies also are able to take complaints from individuals and others whose human rights have been violated. The following are the nine core human rights treaties and their years of adoption:

Treaty	Acronym	Year
International Convention on the Elimination of All Forms of Racial Discrimination	CERD	1965
International Covenant on Civil and Political Rights	ICCPR	1966
International Covenant on Economic, Social and Cultural Rights	ICESCR	1966
Convention on the Elimination of All Forms of Discrimination against Women	CEDAW	1979
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	CAT	1984
Convention on the Rights of the Child	CRC	1989
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	CRMW	1990
Convention on the Rights of Persons with Disabilities	CRPD	2006
International Convention for the Protection of All Persons from Enforced Disappearance	CED	2006

- **Office of the High Commissioner for Human Rights (OHCHR) and Other UN Agencies.** The OHCHR is the center of most human rights activities of the United Nations. It coordinates UN action to protect and promote human rights and includes country and regional offices that work with local partners to ensure implementation of and education about human rights standards. The OHCHR also supports the work of the Human Rights Council and the core treaty monitoring bodies. Several other agencies within the United Nations deal with human rights issues, including agencies such as the UN Development Program and the UN High Commissioner for Refugees.¹⁰

In addition to creating international human rights treaty law, the United Nations expands the world's understanding of the scope and content of human rights by drafting non-binding international standards that reflect international consensus on specific human rights issues, such as declarations, principles, and guidelines. Examples of these instruments include:

- Principles for the Protection of All Persons under Any Form of Detention or Imprisonment;
- Declaration on the Human Rights of Individuals Who Are Not Nationals of the Country in which They Live;
- Declaration on the Rights of Indigenous Peoples;
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;
- Indigenous and Tribal Peoples Convention;¹¹
- Standard Minimum Rules for the Treatment of Prisoners;

¹⁰ OHCHR, "Human Rights Bodies," accessed Jan. 15, 2014, <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>.

¹¹ Also known as International Labour Organization Convention No. 169 (1989).

- United Nations Principles for Older Persons;
- Guiding Principles on Business and Human Rights; and
- United Nations Rules for the Protection of Juveniles Deprived of their Liberty.

Other International Human Rights Bodies

In addition to the United Nations, there are other international organizations involved in creating, monitoring, and enforcing international human rights standards. Some of these international organizations focus on a particular category of human rights issues, while others restrict their focus to a geographic region.

The International Labour Organization (ILO) oversees a group of legally binding conventions that guarantee certain human rights related to work, especially “freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; and the elimination of discrimination in respect of employment and occupation.”¹²

The International Criminal Court (ICC) is an independent, permanent court that tries persons accused of the most serious international crimes: genocide, crimes against humanity, and war crimes.¹³ The ICC is based on the Rome Statute, a treaty ratified by 122 countries that provides jurisdiction over these crimes and complements the national legal system.

¹² International Labor Organization, “Conventions and Recommendations,” accessed Jan. 15, 2014, <http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm>.

¹³ International Criminal Court, “About the Court,” accessed Nov. 10, 2010, http://www.icc-cpi.int/en_Menus/ICC/About%20the%20Court/pages/about%20the%20court.aspx.

Regional Systems for the Protection of Human Rights

In addition to the international human rights system, there are currently three region-specific, treaty-based systems for the protection of human rights. The three regional systems were each established under the auspices of a larger intergovernmental organization for regional cooperation: the Council of Europe, the Organization of American States, and the African Union:

Regional Systems for Human Rights Protection



EUROPE

The **European Court of Human Rights** enforces the Council of Europe's **European Convention on Human Rights**. The European Convention protects rights such as the right to life, freedom from torture, the right to vote, and freedom of expression. Several other human rights treaties in the European system provide additional recognition for minority rights, economic, social, and cultural rights, and the prohibition against torture. Individuals, groups, and governments can bring allegations of human rights violations to the court. The judgments of the court are binding and typically involve compensation for the victim of the violation.¹⁵ In order to join the European Union, a country must first ratify the European Convention on Human Rights and accept the jurisdiction of the European Court of Human Rights.



THE AMERICAS

The **Inter-American Commission on Human Rights** and the **Inter-American Court of Human Rights** together interpret and enforce the **American Convention on Human Rights** and the **American Declaration on the Rights and Duties of Man**. The Inter-American Commission investigates individual complaints, conducts independent monitoring, and refers cases to the Inter-American Court. The court rules on cases involving violations of the American Convention brought by governments or by the commission, and it offers advisory opinions on the correct interpretation of regional human rights treaties.



AFRICA

The **African Commission on Human and Peoples' Rights** acts as the primary human rights monitoring mechanism for the **African Charter on Human and Peoples' Rights**. The commission receives regular reports on human rights conditions from governments that are signatories to the charter. In addition, governments can lodge complaints before the commission, which then issues a report of its findings and recommendations.¹⁶ The African system has also promulgated human rights treaties on specific rights (refugees, children, women, and elections and good governance). **The African Court on Human and Peoples' Rights**, which delivered its first ruling in 2009, is the main judicial body in the African system.

¹⁴ European Court of Human Rights, "Information Documents: The Court in Brief," accessed Jan. 7, 2014, http://www.echr.coe.int/Documents/Court_in_brief_ENG.pdf; Hellenic Resources Network, "European Convention on Human Rights and its Five Protocols," accessed Jan. 7, 2014, <http://www.hri.org/docs/ECHR50.html>.

¹⁵ African Commission on Human and Peoples' Rights, "History," accessed Jan. 7, 2014, <http://www.achpr.org/about/history>.

D. What Is the Connection Between Human Rights and Domestic Law?

International human rights law provides an important framework for guaranteeing the rights of all people regardless of the countries in which they live. International human rights law is contained in many different types of documents, including treaties, charters, conventions, and covenants. Despite the different official names, all of these documents are considered treaties and have the same effect under international law: a country that ratifies a treaty is legally obligated to protect the rights it describes.

Countries have different methods for joining or consenting to be bound by multilateral human rights treaties. Some countries use a process called accession which requires only one step—depositing the instrument of accession with the United Nations. Other countries require a two-step process of signing and ratification. For example, for the United States to become a party to a treaty, the President must first sign and then present it to the Senate, where two-thirds of the Senators must vote to ratify it.¹⁶ Regardless of the method for ratifying a treaty, however, the end result is the same. Through accession or ratification, a country agrees to be legally bound by the terms of the treaty.

Countries that ratify treaties are allowed to enter reservations to those instruments. Reservations are statements made by a country that modify the legal effect of certain provisions of the treaty. Entering a reservation allows a government to agree to most of a treaty, while excluding or limiting parts that might be controversial or unconstitutional in its own country.

The means by which an international treaty enters into national legislation differs depending on the parliamentary system and national procedures. In some countries, the constitution or other legal provisions allow direct application of the treaty. In others, national legislation must be passed first to make the provisions of the treaty applicable.

Even after treaty ratification, however, the strongest protection for the rights of individuals is often domestic law. In some countries, the constitution may provide fundamental, minimum human rights protections. For example, many of the rights contained in the U.S. Constitution are also found in the Universal Declaration of Human Rights (UDHR), especially rights related to political and civil liberties. Although the U.S. Constitution provides strong protections for civil and political rights, it lacks similar guarantees for the economic, social, and cultural rights identified in the UDHR. In the United States, fulfillment of those rights depends on national and state legislation rather than on the U.S. Constitution. U.S. courts also provide a remedy for people whose fundamental rights have been violated. Decisions of the U.S. Supreme Court specify fundamental rights that have analogs in human rights treaties, such as the presumption of innocence in a criminal trial¹⁷ and freedom of movement.¹⁸

Many diaspora community groups and others doing social justice work use multiple strategies, including human rights monitoring, documentation, and advocacy, to advance their missions. Integrating a human rights approach into social justice work keeps all avenues for advocacy open, whether at the local, national, or international level.

International Humanitarian Law

International Humanitarian Law, also known as the law of war or armed conflict, is a body of law created to place restrictions on the conduct of hostilities (the use of certain weaponry and means of warfare), to protect people who are not or who are no longer participating in the conflict (e.g., civilians, prisoners of war,

¹⁶ U.S. Senate, "Treaties," accessed Jan. 7, 2014, <http://www.senate.gov/artandhistory/history/common/briefing/Treaties.htm>.

¹⁷ *Coffin v. United States*, 156 U.S. 432 (1895).

¹⁸ *Paul v. Virginia*, 75 U.S. 168 (1869); *Kent v. Dulles*, 357 U.S. 116 (1958).

wounded and sick, and humanitarian workers), and to confine the use of violence to the achievement of the objectives of the conflict.¹⁹ The overarching goal of international humanitarian law is to “ensure the safety and dignity of people in times of war.”²⁰

The rules of international humanitarian law set forth in the four Geneva Conventions (1949) and their two Additional Protocols (1977) differ in content and application depending upon the type of conflict. The most comprehensive international humanitarian law rules apply to situations of “international armed conflict” (i.e., conflicts between countries).²¹ Less extensive rules cover situations of “internal armed conflict” (i.e., those that take place within a country and involve one or more groups and possibly the country’s government).²²

Both international humanitarian law and international human rights law share a common goal of protecting the rights and dignity of individuals, but that goal is pursued in different ways in the two separate but overlapping bodies of law.²³ International humanitarian law operates in a specific emergency situation—armed conflict; human rights law applies more broadly and seeks generally to protect the rights of individuals regardless of the presence of conflict.²⁴ In addition, no derogations are allowed from international humanitarian law rules;²⁵ however, governments may suspend some human rights during a public emergency that threatens the country’s security.²⁶



Peter Maurer, president of the International Committee of the Red Cross, and Riyadh Ksheik, head of the Sahnaya sub-branch of the Syrian Arab Red Crescent, listen to a displaced woman tell her story.

¹⁹ American Red Cross, “Fact Sheet: International Humanitarian Law and Human Rights,” accessed Jan. 7, 2014, http://www.redcross.org/images/MEDIA_CustomProductCatalog/m21969262_IHL_and_HR_Factsheet.pdf; Office of the High Commissioner for Human Rights, “Fact Sheet No. 13: International Humanitarian Law and Human Rights,” accessed Jan. 7, 2014, <http://www.ohchr.org/Documents/Publications/FactSheet13en.pdf>.

²⁰ International Committee of the Red Cross, *IHL: The Basics of International Humanitarian Law* (Geneva: ICRC, 2005). Also available online at <http://www.icrc.org/eng/assets/files/publications/icrc-002-0850.pdf>.

²¹ American Red Cross, “Fact Sheet: International Humanitarian Law and Human Rights,” *supra* note 19.

²² American Red Cross, “Fact Sheet: International Humanitarian Law and Human Rights,” *supra* note 19.

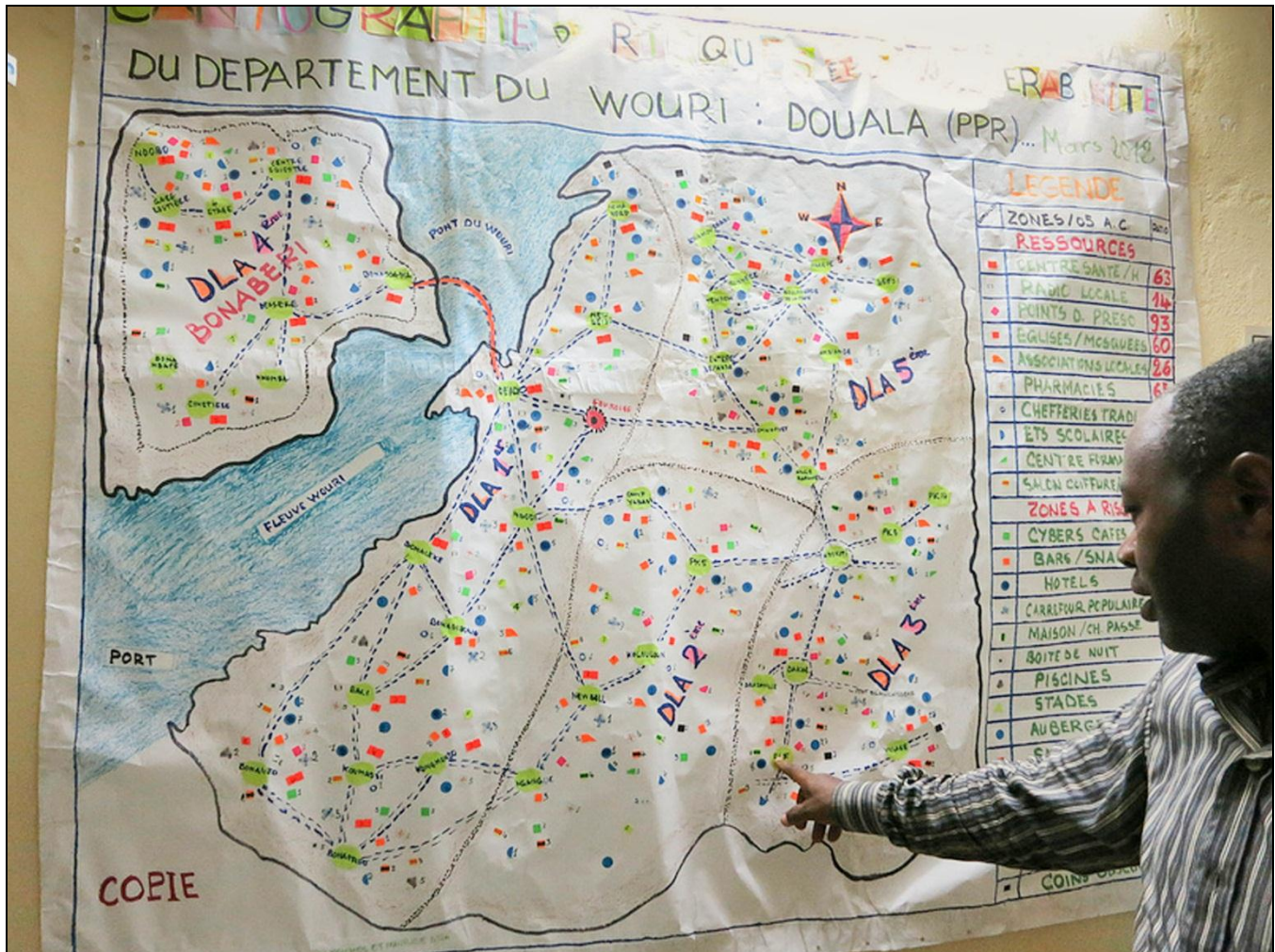
²³ International Committee of the Red Cross, *International Humanitarian Law: Answers to Your Questions* (Geneva: ICRC, Oct. 2002), 36. Also available online at http://www.ehl.icrc.org/images/stories/resources/ihl_answers_to_your_questions.pdf.

²⁴ American Red Cross, “Fact Sheet: International Humanitarian Law and Human Rights,” *supra* note 19.

²⁵ *Ibid.*

²⁶ International Committee of the Red Cross, *International Humanitarian Law: Answers to Your Questions*, *supra* note 23, at 36.

Chapter 3. Monitoring



A. Introduction

Human rights monitoring refers to the collection, verification, and use of information about human rights violations.²⁷ Monitors use a systematic approach to collect, verify, and analyze information to identify violations of human rights. For purposes of this manual, the monitoring process can be broken down into *monitoring*, or the fact-finding and collection of information regarding the human rights violations, and *documentation*, the processing, compilation, and presentation of the monitoring results.

Human rights monitoring can also serve as a tool for systematic and long-term social or legal change.²⁸ Advocates should communicate the monitoring results and recommendations to the appropriate authorities, the

²⁷ Minnesota Advocates for Human Rights, "Making the Global Local: Human Rights Monitoring in Our Own Community," Minneapolis: Minnesota Advocates for Human Rights, July 1, 2005 (unpublished training material).

²⁸ Office of the High Commissioner for Human Rights, "Basic Principles of Monitoring," in *Training Manual on Human Rights Monitoring*, (New York: United Nations Publication, 2001). Also available online at <http://www.ohchr.org/Documents/Publications/training7Introen.pdf>.

media, civil society organizations, and others to raise awareness about their findings to create social change.²⁹ Advocacy should also be considered an integral part of any monitoring project.

Human rights monitors seek to identify and investigate the extent to which the reality of a given situation falls short of the standards set forth in international human rights law. Monitors collect accurate and objective information based on fundamental principles of monitoring. The methodologies and scope of each monitoring project vary depending on the project's objectives, resources, and design.

Monitoring methodologies are based on the issue being evaluated and include interviews, media monitoring, forensic exams, process observation, on-site inspections, surveys, and audio-visual recording. This chapter focuses on the traditional, qualitative methods of human rights monitoring. To that end, this chapter provides guidance on conducting fact-finding through interviews and other information-gathering techniques. Chapters 4 and 5 provide introductions to additional monitoring tools and remote monitoring, discussing how these additional tools can supplement fact-finding interviews. For further details on how to use other forms of monitoring, these chapters provide referrals to other resources.

In traditional human rights monitoring, international human rights principles and norms are used as the standard in an objective assessment of a case or a situation.³⁰ This chapter focuses on the mechanics of monitoring, but advocates should bear in mind that there are overarching principles that govern this type of work. These principles for human rights monitors were developed by the UN Office of the High Commissioner for Human Rights and are summarized in this section.³¹ This manual incorporates those principles in setting forth guidelines and considerations for advocates undertaking human rights monitoring. See "Chapter V. Basic Principles of Monitoring" in the *Training Manual on Human Rights Monitoring by Office of the High Commissioner for Human Rights* for further discussion.

Human Rights Monitoring Principles³²

Principle 1: Do no harm.

The core of this principle is that the investigation of human rights violations should not cause further damage to the victims. Although the collection of information is essential in human rights monitoring, it should never be done at the expense of another person's physical safety at any phase, or the emotional and mental health of the victim. As a general rule, human rights monitors should interview victims only when absolutely necessary and when the monitor can respect this principle. In cases where monitors are unable to obtain the information without risk to the victim or potential victims, or where an interview may cause physical or psychological harm and appropriate protection is not available, the monitors should not carry out the interview. Upholding the do no harm principle also involves protecting the confidentiality of interviewees.

²⁹ Ibid.

³⁰ Manuel Guzman and Bert Verstappen, "What is Monitoring," vol. 1 of *Human Rights Monitoring and Documentation* (Versoix, Switzerland: HURIDOCS 2003), 30.

³¹ Office of the High Commissioner for Human Rights, "Basic Principles of Monitoring," *supra* note 28, at 87–93.

³² Compiled from: Office of the High Commissioner for Human Rights (OHCHR), "Basic Principles of Monitoring," Chapter 5 in *Training Manual on Human Rights Monitoring*, *supra* note 28; Mary Ellsberg and Lori Heise, *Researching Violence Against Women: A Practical Guide For Researchers and Activists* (Geneva: World Health Organization and Program for Appropriate Technology in Health (PATH), 2005); Women, Law & Development International and Human Rights Watch Women's Rights Project, *Women's Human Rights Step by Step*, (Washington, D.C.: Women, Law & Development International: 1997); Karyn Kaplan, *Human Rights Documentation and Advocacy: A Guide for Organizations of People who Use Drugs, Harm Reduction Field Guide* (New York: Open Society Institute, 2009); Jonathan Rosenblum, *Monitoring Labour Rights: A Resource Manual for NGOS* (Washington, D.C.: AAAS Science and Human Rights Program, 2004); Jennifer Prestholdt, *Familiar Tools, Emerging Issues: Adapting traditional human rights monitoring to emerging issues*, ed. Rachel Tschida, *Tactical Notebook Series*, (Minneapolis: Center for Victims of Torture, 2004), <http://www.newtactics.org/en/FamiliarToolsEmergingIssues/>.

Principle 2: Respect the mandate.

Advocates should ensure that all monitors comprehend the project's mandate. Monitors should understand how the monitoring fulfills the mandate, what actions are permissible under the mandate, and what ethical considerations and potential harms are associated with it. Respecting the mandate also involves respecting boundaries between the monitor and interviewee. Monitors should remember the respondent is an interviewee for purposes of monitoring, should not seek to befriend or counsel respondents, and should maintain professional boundaries. If the monitor realizes that the respondent needs assistance, the monitor can provide appropriate referrals.

Principle 3: Know the standards.

Monitors should know and understand the applicable standards and laws, including relevant international and regional human rights standards. They should understand the applicable international obligations and the extent to which these obligations can be enforced. In addition, monitors should know and understand relevant domestic laws, policies, and practices. These include national and local laws, as well as policies and guidelines issued by different governmental bodies. For example, when monitoring the government response to domestic violence, team members should not only understand the statutory laws, but should also seek to obtain protocols for police, prosecutors, health care providers, and child protection workers. They should also seek out community and victim support policies and judicial order for protection decision templates. Monitors should examine the issue broadly to determine if more general standards apply as well. For example, protocols related to crime victims, although not specific to domestic violence, may still be applicable.

Principle 4. Exercise good judgment.

When monitoring human rights violations, unanticipated situations may arise that require monitors to change the monitoring protocol. When deciding whether to deviate from the established protocol and what specific action to take, the monitor should always use his or her best judgment and adhere as much as possible to the other monitoring principles, particularly those of do no harm and respecting the project's mandate.

Principle 5. Seek consultation.

Monitors should communicate with team members and leaders throughout the monitoring stage and consult when difficult questions arise. Regular debriefing after interviews can help promote conformance to the mandate. Debriefing will also allow the team to continuously evaluate the process and identify early patterns, gaps, and areas for follow-up. Additionally, monitors may wish to consult with experts such as victims/survivors, advocates, academics, or service providers. Experts can assist in various stages of the process. They can help develop or vet interview questions for different stakeholders, or provide legal advice about potential consequences for participants in the monitoring project. Similarly, it may be helpful to consult with other advocates or victims to determine what recommendations they believe would best promote the victims' rights.

Principle 6. Respect the authorities.

Monitors should remember their role as objective fact-finders and always respect authorities' roles and responsibilities. A typical objective of monitoring is to change or stimulate a governmental response to a particular human rights situation. Conducting monitoring in a respectful manner can help preserve the opportunity for positive engagement with government actors and decision makers in the advocacy phase. Monitors can demonstrate respect by observing local laws and ordinances, by seeking official permission to conduct monitoring activities, and by using respectful and professional language at all times. As part of this principle, monitors may need to carefully assess who they select for the team to ensure there are no risks or conflicts involved in engaging with the authorities.

Principle 7. Credibility.

Monitors should strive to maintain their credibility and that of the organization they represent. This principle applies relative to the respondents being interviewed, as well as to the public at large. Credibility is crucial to successful monitoring, documentation, and advocacy. Individuals—whether victims, witnesses, informants, policymakers, or media—will be more open to coming forward and providing reliable information if they trust the organization and project. Credibility is also important in the presentation of the findings. The impact of any advocacy initiative will depend on the accuracy of the facts upon which it is based. If monitors cannot guarantee accuracy and objectivity, the outcome may not be helpful, either for the campaign or for the affected communities.

Principle 8. Transparency.

Monitors should be open and transparent about the organization, the project, and its processes without compromising confidentiality. A transparent methodology enables monitors to account for each step taken to investigate a human rights violation and how they arrived at conclusions. Clearly laying out the project background at the start of an interview and establishing a methodology for drawing conclusions for the report can promote transparency.

Principle 9. Confidentiality.

The project design should include an assessment of the level of confidentiality necessary. Generally, monitors should preserve the confidentiality of information through all stages of the project and afterward. Safeguarding confidentiality is imperative to doing no harm, upholding the integrity of the project, maintaining credibility, and promoting effectiveness. In particular, the identity of victim/survivor-informants must always be protected through confidentiality and appropriate security measures.

Principle 10. Security.

In addition to the security measures for respondents described above, organizations should take steps to ensure the security of monitoring team members. These steps may include requiring team members to:

- Check in with a team leader or other member regularly and after each interview;
- Avoid taking risks that may place the team member or others' safety in jeopardy;
- Carry a cell phone; or
- Travel in pairs or teams, especially in unsafe areas.

Principle 11. Understand the context.

Before embarking on a monitoring project, monitors should understand the community in which they will be working. Monitors should undertake preliminary research to know the people, local history, government structure, and culture. Where relevant to the mandate, monitors should understand the dynamics of micro-communities, such as customs, language, past histories, and family and community structures. In cases where the community is deliberately not involved as monitors to prevent risks, or where multiple communities are involved, forming an advisory committee representative of that population can ensure that fact-finders will comprehend its dynamics.

Principle 12. Need for consistency, persistence, and patience.

Although situations will differ and unanticipated circumstances will arise, monitors should strive to follow the protocol consistently. Monitoring nearly always has challenges, so it requires monitors to persevere, be patient and be flexible. At times, monitors may need to adapt or amend their protocol to achieve their goals. They should be prepared to do so, but remember to respect the mandate and other monitoring principles to the greatest extent possible.

Principle 13. Accuracy and precision.

The project protocol should provide the foundation for the collection of accurate and precise information. Advocates should ask specific and thorough questions and ask follow-up questions for clarity. Interviewers should write up their notes as soon as possible after completing the interview, the same day if possible, to ensure they are as accurate as possible. Monitors can also take steps in the documentation process to promote accuracy and precision. For example, if monitors are not able to draw solid conclusions from their data, their findings may still have value. In some cases, the data may speak for itself and should be included, possibly with an acknowledgment of the limitations that prevent inferring a conclusion. Building in corroboration mechanisms, as well as time to fact-check and review the accuracy of citations, will ensure accurate reporting and attribution. Finally, monitors should draft and publish the report in a timely fashion to ensure the information presented is relevant.

Principle 14. Impartiality and objectivity.

Monitors should strive to be objective and impartial in all stages of the monitoring and documentation process. For example, in their work fact-finders should not demonstrate political positions or biases against governments, officials, businesses, interviewees, or other relevant bodies. Monitors should apply this principle when evaluating their findings. They should avoid using subjective reference points and instead rely on the project mandate and international human rights framework as the standard for evaluation.

Principle 15. Sensitivity.

Monitors should thoroughly consider all possible legal ramifications and social consequences of the project for respondents, their families, and the community-at-large. Monitors should be sensitive to any possible unintended effects of the documentation process, such as perpetuating negative stereotypes or increasing conflicts between different groups. Monitors should also be sensitive to possible consequences of their selection of fact-finders and consider using a vetting process. Organizations should train monitors on the harms a victim may have experienced, the short- and long-term consequences, and the potential of re-traumatization of victims and secondary traumatization of the interviewers. Monitors should also train fact-finders on cultural and linguistic sensitivities specific to different communities.

Principle 16. Integrity and professionalism.

Monitors should always demonstrate integrity, honesty, and respect to all participants and team members. They should maintain a professional demeanor, be knowledgeable, and exercise diligence and competence in their work. Monitors should avoid making promises they cannot keep.

Principle 17. Visibility.

Monitors may want to take steps to ensure that relevant authorities and the local community are aware that monitoring is taking place. These steps may involve public outreach and meetings with identified community leaders. The extent of information they disclose about the monitoring will depend on the nature of the project. In some cases, raising visibility of the issue may be an integral part of the project design. In doing so, monitors should consider the questions they plan to ask respondents and whether public knowledge of those questions could place them at any risk for further violence, intimidation, or retaliation.

B. Developing a Monitoring and Documentation Protocol

A human rights monitoring methodology generally includes the collection of data and other information from the people experiencing the abuses, witnesses, and people involved in causing or responding to the violations. This

information-gathering is often accomplished through interviews in combination with other methods, such as review and analysis of documents or observation of processes and events.

Careful planning and design of a monitoring and documentation protocol is essential to its success. Before beginning, advocates should, to the extent possible, map out the monitoring and documentation project in its entirety to avoid basic errors, such as wasting time in interviews by asking irrelevant or poorly articulated questions, using a research design that is ill-suited to the task, or employing a methodology that does not match the project needs, skills, or available resources.³³ This section introduces the basic steps and considerations involved in designing a monitoring project. The nature of a particular project or the experience of a particular organization may require that some of the steps be re-ordered. Advocates should be flexible and use good judgment in designing the project.

Advocates should also make sure that they are aware of and in compliance with local laws when conducting human rights monitoring and documentation. For example, when applying for a visa to visit a country to conduct human rights monitoring, advocates should be careful not to apply for a tourist visa when the purpose of their visit is not for tourism. In some jurisdictions, human rights monitors must register their presence with the local police.

Step 1. Determine Your Objectives.

Advocates should determine what they want to accomplish through the project and whether it is the best use of their organization's resources. The following are some preliminary questions to assist in evaluating a potential monitoring project:

What are the project's goals and why does it fit the organization's mission?

- How does this project improve human rights conditions within the community and foster a greater understanding of human rights?
- Is the project timely?
- Is another organization already carrying out a similar project? Can the proposed project enhance work that is already completed in this area?
- Does the organization have the expertise, funding, resources, and objectivity to carry out the project?
- Will the organization be called upon to evaluate issues that fall outside of its scope of expertise or mandate? Is this appropriate and to what degree?³⁴
- What measurable findings can this project yield?
- How can the monitors analyze the findings?
- What will the final product be, e.g., a publication, a video, or a report?
- What additional investigation and follow-up will the project suggest?
- What public awareness and advocacy activities are needed to achieve the project goals?³⁵

Practitioner's tip: Activists should consider an initial consultation with advocates working with the victim population to determine whether attention generated by the monitoring would be helpful to the cause and not deleterious. In some cases, victims' representatives may believe that increased attention to the issue may generate public outcry for an outcome that may be more harmful to their clients at that time. The advocates may ask that monitoring not take place, public attention to the monitoring be minimized, or that the release of the report be restricted in some way.

³³ Mary Ellsberg and Lori Heise, *Researching Violence Against Women: A Practical Guide For Researchers and Activists*, (Geneva: World Health Organization and Program for Appropriate Technology in Health (PATH), 2005), 48–49. Also available online at http://www.path.org/publications/files/GBV_rvaw_front.pdf.

³⁴ Jennifer Prestholdt, *Familiar Tools, Emerging Issues: Adapting Traditional Human Rights Monitoring to Emerging Issues*, ed. by Rachel Tschida (Minneapolis: Center for Victims of Torture, 2004), 9. Also available online at <https://www.newtactics.org/resource/familiar-tools-emerging-issues-adapting-traditional-human-rights-monitoring-emerging-issues>.

The advocate should draw upon these and similar questions to frame the project and determine an end goal. At this initial stage, the end goal can be broadly defined, for example, to increase safety for marginalized populations or increase access to health care. Once the end goal is identified and deemed appropriate to the organization's work, the advocate can proceed to define the project more clearly, outline its objectives, and determine the mandate.

i. Identify the Issue and Need

One of the first steps in monitoring is to identify the human rights issue to be investigated.³⁶ Often, the need for investigation will emerge from the issues identified by a service provider, a non-governmental organization (NGO), or an activist group. In some cases, the victim group or a representative may approach the organization asking for help in documenting a human rights violation. Other times, the organization itself may identify the need through client contact or through concerns it hears from the community.

Advocates should verify the need for the monitoring project. Becoming aware of what is already known about the issue will avoid duplication of efforts and wasted resources. If other groups are addressing the same issue, advocates should ask themselves whether their project will expand upon or add value to ongoing work. Also, confirming the need for monitoring is an important measure to prevent potential future harm. In some cases, victims or their representatives may be intentionally minimizing public attention to the issue. Reviewing relevant materials and speaking to affected individuals, communities, and stakeholders with experience on the issue will help advocates narrow the focus and assess the actual need.³⁷

Advocates should describe the nature of the violation as much as possible before beginning:

- What is happening?
- What are its causes?
- Is the violation an isolated incident or part of a larger pattern?
- Who are the parties involved? Are they victims, perpetrators, responsible government actors, witnesses, or NGOs?³⁸

Complete answers to these questions will come through the process of monitoring itself.

ii. Define the Scope

The next step in planning is to define the scope of the project based on the available time, money, and other resources, while maintaining the focus on the larger issue to be addressed.³⁹ The scope may be determined by the specific rights at issue, the affected population, geography, historical events, or any combination of these.⁴⁰

Advocates should ask themselves:

- What concerns have been raised that compel this project?
- What has been studied already? What has not?
- How narrowly construed can the project be while still remaining meaningful and impactful?

³⁵ Ibid., 10.

³⁶ Ellsberg and Heise, *Researching Violence Against Women*, supra note 33, at 51.

³⁷ Ibid., 51–52.

³⁸ Karyn Kaplan, *Human Rights Documentation and Advocacy: A Guide for Organizations of People who Use Drugs* (New York: Open Society Institute, 2009), 34–35. Also available at

http://www.soros.org/initiatives/health/focus/ihrd/articles_publications/publications/hrdoc_20090218/hrdoc_20090218.pdf/.

³⁹ Women, Law & Development International and Human Rights Watch Women's Rights Project, *Women's Human Rights Step by Step* (Washington, D.C.: Women, Law & Development International, 1997), 140.

⁴⁰ Guzman and Verstappen, *What is Documentation*, supra note 30, at 11.

Projects that focus on violations perpetrated against a specific population, such as children, women, or immigrants, may include additional factors to broaden or narrow the focus of the mandate.⁴¹ For example, an organization seeking to monitor trafficking might narrow its focus from “women” to “indigenous women in a particular area.” Although the scope is narrower, the findings may still reveal broader problems with the justice system that affect all victims of trafficking. When defining these parameters, advocates should be guided by the fundamental principles of monitoring, the project’s objectives, resources, timeline, and surrounding legal context.

iii. Identify the Human Rights Standards

In human rights monitoring, human rights standards provide the framework for the project design or protocol. Advocates should have a clear understanding of the international human rights standards relevant to the issue area being monitored, including standards set forth in the relevant UN and regional treaties and guidelines. Advocates should also know the government’s ratification and reservation status for each of the relevant treaties. Depending on the issue, the project design may also include review of national and local laws and policies relevant to the violation.

The level and degree to which advocates must know the standards will vary. Advocates seeking to do basic human rights monitoring may be able to find the standard appropriate for their work simply by reading the Universal Declaration of Human Rights. Or, they may need to delve more deeply into international law to understand the meaning underlying those provisions, how they are interpreted by treaty bodies, and how they interconnect with other rights. For example, on a most basic level, advocates working on a specific due process matter may only need to know that everyone has the right to freedom from arbitrary detention.⁴² On the other hand, advocates working on a more complex issue, such as sex trafficking, will need to understand a wide range of rights, including: freedom from slavery, discrimination, and torture; right to life, liberty, and security of person; equal protection of the laws; and the right to an effective remedy. Advocates should also understand what those rights mean in terms of the government’s obligations to prevent trafficking, provide remedies to victims, and prosecute traffickers.

When identifying the relevant international standards, advocates should think broadly about how multiple human rights intersect over a single issue. For example, domestic violence not only violates a woman’s right to be free from discrimination and violence (CEDAW, General Recommendation 19), it also triggers a woman’s right to be free from torture (ICCPR and CAT), a woman’s right to equality before the law (ICCPR), and a woman’s right to the highest attainable standard of physical and mental health (ICESCR). Advocates should also look to other policy documents that help interpret binding treaties, such as general comments and concluding observations issued by the treaty bodies, as well as declarations, resolutions, principles, and guidelines. While not legally binding, these latter instruments represent an international consensus on an issue and can have persuasive force.

Some questions advocates can ask themselves when identifying the human rights standards include:

- What human rights issues are triggered or influenced by the violation?
- What treaties govern the human rights issues?
- What are the relevant provisions and standards within these treaties?
- Are there any other instruments, such as treaty body general comments or concluding observations, that provide more depth to the standard?

⁴¹ Ibid.

⁴² UN General Assembly, International Covenant on Civil and Political Rights, 1966, Art. 14(5).

Sometimes these questions can be difficult to answer. Advocates can get help by reviewing reports that other organizations such as Amnesty International, Human Rights Watch, The Advocates for Human Rights, or the United Nations may have published related to the issue. Advocates may also seek consultation with colleagues at these organizations or with experts at law schools who focus on human rights law.

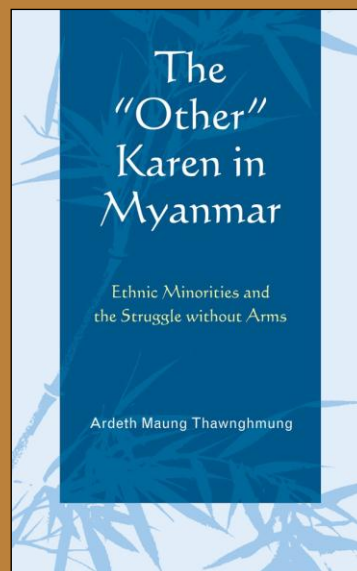
iv. Determine What Information Is Needed and How to Obtain It

The next step involves identifying the information necessary to assess whether the government is in compliance with its human rights obligations. Monitoring human rights violations involves examining the experiences that stem from the violation, the parties involved, the framework set up to address that issue, such as legislation, policies, or resources, as well as the implementation and effectiveness of that framework.

Advocates should identify potential sources of information needed for the monitoring project. Apart from secondary sources, direct sources of human rights information include: victims, witnesses, and evidentiary material; government agencies; human rights organizations and other NGOs; social service agencies; media; academics; treaty monitoring and other UN bodies; and inter-governmental organizations.⁴³ Advocates should consider who may have relevant information: parties suspected of committing, directing, or authorizing the abuse; individuals or groups affected by the violation; and people working on the issue. This step is meant only to provide a starting point for the monitoring project. The list of potential sources of information will expand and evolve as the project is implemented.

Ardeth Maung Thawngmung: “The ‘Other’ Karen in Myanmar: Ethnic Minorities and the Struggle Without Arms”

Ardeth Maung Thawngmung, a member of the Karen ethnic minority from Myanmar, wanted to tell the story of the conflict in her homeland through the eyes of the Karen who experienced human rights abuses and were forced to flee. To obtain this information, Thawngmung used opinion surveys and conducted interviews with members of the Karen diaspora. She used this information to write a book called “The ‘Other’ Karen in Myanmar: Ethnic Minorities and the Struggle Without Arms.”⁴⁴



In some cases, giving voice to the victims is part of the project mandate. For example, rather than fulfill a specific research query, a project’s goal might be to collect personal accounts from the victims or potential victims to document their experiences. In the case of a truth commission or public tribunal, the overall goals include providing a forum for victims to come forward voluntarily and tell their stories. In other cases, however, interviewing victims is not necessary to meet project goals, or the advocate can obtain the information from other

⁴³ Prestholdt, *Familiar Tools, Emerging Issues*, *supra* note 34, at 8.

⁴⁴ Thawngmung, Ardeth Maung, *The “Other” Karen in Myanmar: Ethnic Minorities and the Struggle Without Arms* (Lexington Books, 2012), at xxi. Also available at <http://books.google.com/books?id=2nlpcv-OX0gC&pg=PR21&lpg=PR21&dq=karen+diaspora+interview&source=bl&ots=seCHdJf9&sig=Lj26d6E2s8XV26u7UT-Ec3nqCJg&hl=en&sa=X&ei=uw8eUrC4CaSN4ATrpoGYCg&ved=0CGsQ6AEwCA#v=onepage&q=karen%20diaspora%20interview&f=false>.

sources, such as advocates who work with the victims. Advocates who interview victims should do so only when victim participation is safe and strictly voluntary, and when appropriate support structures are in place. Advocates should consider the following questions:

- Is victim participation essential to meet project goals?
- Can the information be obtained some other way, such as through interviewing a victim’s representative or advocate?
- If a victim is interviewed, is there a process to ensure it is voluntary, and the victim has given informed consent?
- Are there support structures in place?
- Can confidentiality be guaranteed?

Speaking about the experience may be healing for victims of human rights abuses, but it may also be stressful or traumatic. Advocates should be trained to recognize distress and should incorporate measures into the monitoring protocol to diminish any potential trauma to interviewees.⁴⁵ See “Step 6. Training the Monitoring Team” on page 46 for further discussion of this issue.

Practitioner’s tip: The World Health Organization (WHO) provides guidelines on reducing harm to female respondents in studies on violence against women. Advocates can draw upon these guidelines and adapt them to their specific monitoring context. The following guidelines are taken directly from the WHO guide on researching violence against women:

- Interview only one woman per household.
- Do not interview men about violence in the same households or clusters where women have been asked about violence.
- Dummy questionnaires may be used if others enter the room during the interview.
- Candy and games may be used to distract children during interviews.
- Use of self-response questionnaires for some portions of the interview may be useful for literate populations.⁴⁶

Human rights monitors can collect the information needed in different ways, ranging from on-site inspections and interviews to forensic exams and process observation. Advocates should carefully consider methodologies and choose one or a combination of methodologies that best addresses the research objectives, best respects the monitoring principles, and will still be feasible given the project’s material and human resources.⁴⁷ “Step 3. Developing Your Approach” on page 26 addresses methodology selection in more detail.

Step 2. Gain Background Knowledge.

Advocates should develop an understanding of the domestic legal context that governs the issue and affects the violation, victims, perpetrators, legal actors, NGOs, and other stakeholders. At the start of a monitoring project, monitors should identify and review all relevant legislation and standards. The team may also need to determine and understand the framework of applicable systems and protocols. Gaining background knowledge of the legal context may be as simple as reviewing the policy on that issue. In other cases, such as the more complex

⁴⁵ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 36, 39.

⁴⁶ *Ibid.*, 39.

⁴⁷ *Ibid.*, 52–53.

example of human sex trafficking, the team may need to understand not only the federal and state laws on trafficking, but also criminal laws on prostitution and sex trafficking of minors, immigration law, maritime law, as well as federal, state, and local agencies set up to address the issue.

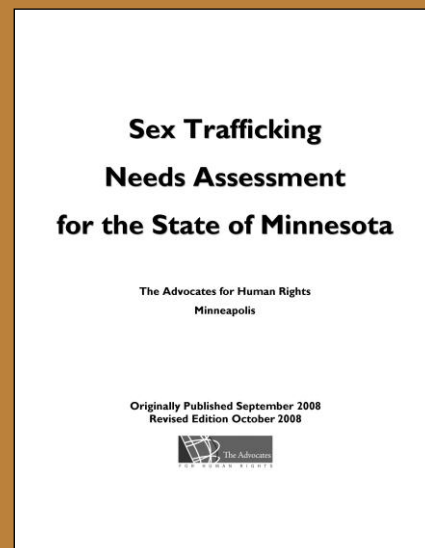
Some questions to ask when identifying and canvassing laws, policies, and practices include the following:

- What is the human rights violation?
- How do other human rights intersect with that violation?
- What criminal, civil, and administrative laws address those human rights issues?
- What agencies, offices, or actors are involved?
- What plans, policies, and protocols have they issued?
- Are there any general issues that affect this particular human rights violation? If so, are there any relevant policies or protocols governing this issue?

The Advocates for Human Rights: Conducting Background Research for a Report on Sex Trafficking

The Advocates for Human Rights conducted a needs assessment on human sex trafficking in Minnesota using a human rights methodology. The report *Sex Trafficking Needs Assessment for the State of Minnesota* (available at http://www.advrights.org/Human_Rights_Reports.html) was published in September 2008. It examines the government response to this issue at the local, state, tribal, and federal levels; identifies facilities and services currently available to trafficking victims in Minnesota; assesses their effectiveness; and makes recommendations for coordinating services to better meet the needs of sex trafficking victims and increasing accountability for traffickers.

Because sex trafficking often involves violations of state, federal, and international law, The Advocates first did a detailed legal analysis of the various laws as part of the project design, including the extent to which these laws contradict or complement each other. This analysis included a review of previous cases of sex trafficking and the strengths and weaknesses of the legal systems in addressing the problem. The background research also included review of data and statistics available about sex trafficking and existing reports on the problem in Minnesota and other states. The monitoring team also surveyed Minnesota organizations working in this field for initial information and the services available to victims of sex trafficking and their views of the gaps in services.



Advocates should also seek to understand the social, economic, religious, cultural, political, and local factors that affect the human rights violations, as well as attributes of the target group or community. This is particularly important where the advocates are not part of the affected group, or the organization has not worked previously with that community. In addition to interviews with affected populations, secondary sources, such as literature, reports, scientific research, news articles, and historical documents can help advocates understand the context in which the alleged violations take place.

When working in a new community, organizations should develop and pursue appropriate strategies to access information about the group concerned. One tactic is to foster relationships with local contacts and form an advisory committee or outreach group. Local contacts can act as a bridge between fact-finders and the local community.⁴⁸ They can provide insight on new developments, as well as inform advocates about ongoing issues. They can also help the fact-finding process by liaising with victims, witnesses, and others, and by providing them information about and referrals to the monitoring organization. If an organization chooses to establish an advisory committee, it should train the committee about the organization, the project mandate, and the principles of monitoring.

Practitioner's tip: During the monitoring process, advocates should take special care to record all relevant details about the sources of information gathered, including URLs if available. In the documentation stage, it is important to be able to cite the sources of information that substantiate any claims.

Advocates should be flexible and creative in seeking information as they prepare for the project. Speaking informally with acquaintances and people not directly involved in the issue can provide information about general public perceptions.⁴⁹ The experiences of other professionals can signal issues for which to be alert. For example, an attorney may have only 5 clients, all of whom have reported experiencing the same type of discrimination; although the pool is not large, this pattern highlights trends that should be further investigated.

By understanding other factors that influence the situation and its actors, monitors can better evaluate the dynamics of the human rights violation, its causes and consequences, the victims' needs, and other contributing factors.

Step 3. Developing Your Approach.

Before selecting a methodology and defining the scope of the project, advocates should assess their capacity in terms of time, expertise, money, infrastructure, and technology. They should determine what they are capable of, and committed to, doing. Evaluating this capacity is an important step to maximize the project's effectiveness given the available resources.⁵⁰ When faced with limited resources, advocates should keep in mind that narrowly defining the research issue may enable them to obtain more comprehensive and well-researched information. They should ask themselves questions to fully understand the availability of resources:

- Does the advocate or organization have the experience needed for the project? If not, can that experience be acquired either by learning it or bringing in another person with that experience?
- Is there sufficient money to do the project in terms of time, salary, overhead, and other expenses?
- What technology is needed for the project? Does the organization already have the technology or can it be obtained through a donation or partnership? Does that technology have a sharp learning curve and if so, is that worth the investment of time?
- Can volunteers be used to leverage limited resources?

Developing a monitoring procedure entails multiple steps, from developing interviewing questions, to establishing and training a team, to developing an interview protocol. While advance planning and the development of procedures are important early steps, advocates should be prepared to remain flexible throughout the entire

⁴⁸ Ibid., 172; OHCHR, *Training Manual on Human Rights Monitoring*, supra note 28, at 101.

⁴⁹ Prestholdt, *Familiar Tools, Emerging Issues*, supra note 34, at 12.

⁵⁰ Jonathan Rosenblum, *Monitoring Labour Rights: A Resource Manual for NGOs* (Washington, D.C.: AAAS Science and Human Rights Program, 2004), 23. Also available online at http://www.academia.edu/3817982/Monitoring_Labor_Rights_A_Resource_Manual_Jonathan_Rosenblum.

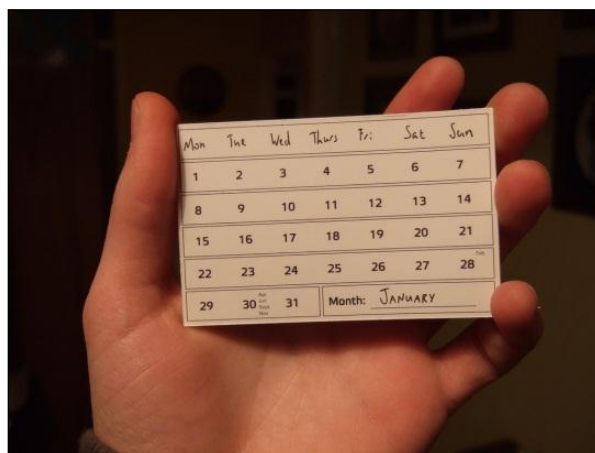
process. Advocates should be willing to alter their methodology and adapt as they encounter gaps or new information. Advocates should not depend on conditions being ideal. They should be ready to use their judgment to evaluate the circumstances presented and deviate from the protocol if necessary.⁵¹

i. Time

Time is an important element of any monitoring project design, and advocates should determine a general timeframe for the project as early as possible. The timeline will be in part dictated by how much and what type of information the advocate seeks to collect:

- Will the timeline continue until a minimum number of people have participated? Advocates should keep in mind that interviewing a sufficient number of participants will facilitate corroboration and lend credence to conclusions.⁵²
- Which groups and how many people from each group does the advocate want to interview?
- Will the timeline continue until the monitors have collected sufficient information?
- How much information is considered sufficient?

Also, monitoring can be either cross-sectional or longitudinal. Cross-sectional research focuses on a “single point in time” by splicing out a cross-section of a broader issue for examination. For example, observing a public demonstration within a day is a cross-sectional approach. In general, cross-sectional monitoring tends to serve the purpose of documenting an emerging issue or building a legal case. Longitudinal research occurs over a longer duration, generally months or years, to collect the same data at regular intervals. This might involve monitoring a human rights violation, such as juvenile detention conditions, that would require repeated interviews with the same people, regular case file review, or possibly multiple, regularly spaced site visits.⁵³ Longitudinal monitoring allows the advocate to look for trends through time and tends to serve purposes related to evaluation and monitoring long-term implementation of a law, policy, or system.



Barring other mandated timelines, monitoring should be continued until advocates have done a full investigation, have examined all potential sources and have developed a solid understanding of the issue.⁵⁴ Another indicator is to continue the fact-finding until the advocate can understand the context and learn to identify distortions within the findings brought about by inaccurate information or personal opinions.⁵⁵ Advocates should look at the objectives of the project and the questions to be answered. If no major gaps are present and the advocate can begin to identify patterns from the findings, the fact-finding phase is likely nearing or at a completion point. Other indicators that the fact-finding is nearing completion and closure is appropriate may include the following:

- Similar stories being repeated by different interviewees;
- Patterns emerging from interviews; and

⁵¹ The Advocates for Human Rights, “Human Rights Monitoring in our Community” (unpublished PowerPoint presentation on file with The Advocates).

⁵² Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 44.

⁵³ William M. Trochim, “Time in Research,” in *The Research Methods Knowledge Base* (Cincinnati: Atomic Dog Publishing, 2nd ed. 2000). Also available online at <http://www.socialresearchmethods.net/kb/timedim.php>.

⁵⁴ Office of the High Commissioner for Human Rights. “Basic Principles of Monitoring,” *supra* note 28, at 91.

⁵⁵ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 213.

- Influx of new information diminishing.

When considering the timeframe for a monitoring project, advocates should be aware of timeliness in relation to the issue. They should seek a balance between a timeline that reflects the available resources and one that respects the project mandate and monitoring principles. For example, fact-finding that extends out over a period of several years may yield more information, but also may diminish the relevancy of that information. Advocates should also consider other factors that will be affected by the passage of time, such as urgent victim needs or tolling of the statute of limitations for claims.

ii. Expertise

Advocates should design a monitoring project that fits their expertise or develop a plan to acquire key skills or involve additional people. If an organization is venturing into a new issue area, advocates should ask themselves what the costs and benefits are of venturing into the new area.⁵⁶

Advocates can develop expertise on an issue with appropriate training and research. Reviewing secondary sources, examining recommendations by other organizations, and conducting preliminary interviews can help strengthen the monitoring team's knowledge of an issue. In some cases, forming an advisory committee of relevant experts and/or members of the target community can provide guidance throughout the project.⁵⁷

Advocates may also choose to involve outside resources, including consultants or other professionals with relevant expertise. For example, in a monitoring project that involves analyzing the legal system's response to police brutality, recruiting an attorney or judge who has dealt with these cases to review interview questions may greatly improve the effectiveness of the monitoring process.

iii. Financial Resources

The availability of funding can also impact the organization's capacity to carry out monitoring. When assessing financial resources, advocates should think expansively about all possible expenses that may arise from monitoring and documentation. Examples of line items for which advocates should plan to allocate costs include:

- Staff time to carry out each phase of the project;
- Travel expenses to and from interviews;
- Room and board if needed;
- Reimbursement for interviewees if applicable;
- Technology resources;
- Layout design and printing costs; and
- Other equipment (notepads, A/V equipment, laptops, cameras).

Staff time will likely be the greatest expense. Organizations should be careful not to underestimate the number of hours a project will take in terms of gathering the information, conducting the interviews, writing the report, and carrying out advocacy.

In addition, organizations may explore involving volunteers as a resource in monitoring, documentation, and advocacy. With good planning, instruction, and oversight, use of volunteers can effectively leverage limited financial resources. Organizations must be prepared, however, to invest time and resources with volunteers to recruit, screen, train, manage, and recognize them. The section on working with volunteers in "Step 4. Establishing a Monitoring and Documentation Team" on page 33 discusses this component in more detail.

⁵⁶ Prestholdt, *Familiar Tools, Emerging Issues*, *supra* note 34, at 9.

⁵⁷ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 45.

The Advocates for Human Rights: Leveraging *Pro Bono* Resources

At the request of the Liberian Truth & Reconciliation Commission (TRC), The Advocates for Human Rights coordinated the work of the TRC in the diaspora. Between January 2007 and August 2008, The Advocates documented statements from more than 1,600 Liberians across the United States, the United Kingdom, and in the Buduburam Refugee Settlement in Ghana, West Africa. The Advocates also coordinated five days of TRC public hearings in St. Paul, Minnesota, to document public testimony from Liberians in the U.S. diaspora. In July 2009, the Advocates presented its 600-page final report to the TRC of Liberia.

The Advocates for Human Rights carried out the Liberia TRC Diaspora Project with no funding from the TRC. Instead, it raised a small cash budget from U.S.-based foundations and individual donors and then leveraged that budget through donations of volunteer time and in-kind support. More than 800 volunteers contributed their time and energy as statement takers, outreach workers, project advisors, data management personnel, researchers, graphic designers, and report writers. More than 20 volunteers paid their own expenses to travel to Ghana to document the statements of Liberian refugees there. The U.S. public hearings were filmed by a volunteer film crew, while *pro bono* lawyers helped witnesses prepare to testify, psycho-social counselors provided support to the witnesses and court reporters transcribed the proceedings. In all, more than 28 law firms, academic institutions, community organizations, and non-governmental organizations (NGOs) were involved as *pro bono* partners with The Advocates' Liberia TRC Diaspora Project.



Pro bono statement-takers at the Buduburam Refugee Settlement in Ghana, with some of the Liberian refugees who gave statements for the Liberia TRC Diaspora Project

Pro bono and in-kind contributions totaled more than \$10 million during the three years of the project, demonstrating the tremendous potential of leveraging in-kind and volunteer contributions to carry out a multi-year, multi-phase project with a small cash budget. “This groundbreaking project would just not have been possible without the tremendous contributions of our volunteers,” said The Advocates’ Executive Director Robin Phillips.⁵⁸

iv. Infrastructure and Technology

Advocates should consider the infrastructure the project may require, such as office space, computers, and telephones. Also, they should assess the kinds of virtual and physical technology they may need for all phases of the project. Technology considerations include:

⁵⁸ The Advocates for Human Rights, “Liberia Truth and Reconciliation Commission Project,” accessed Jan. 16, 2014, http://www.theadvocatesforhumanrights.org/Liberian_Truth_and_Reconciliation_Commission_Project_2.html; The Advocates for Human Rights, *A House with Two Rooms: Final Report of the Truth and Reconciliation Commission of Liberia Diaspora Project* (St. Paul, MN: DRI Press, 2009).

- Software. Organizations should research available software to meet their research needs, including database, citation, and issue-specific software.
- Research tools. Legal, news, or other research databases. Some of these tools are free, such as RSS feeds, while others require a subscription.
- Digital capacity. Organizations may need additional digital storage to house and protect large documents or files.
- Physical electronic equipment. This equipment may include A/V equipment, flash drives, printers, copiers, and laptops.

A variety of online tools relevant to different stages of the process is available, often free or at reduced cost, on the internet. The Media Advocacy section starting on page 106 and “Appendix A: Document Storage” discuss some of these tools in more detail.

Step 4. Establishing a Monitoring and Documentation Team.

Advocates should carefully select the monitoring and documentation team. Team members may impact the public perception of the organization’s credibility and independence, as well as the project’s success. Thoughtful and appropriate selection of the team is fundamental to project success.

i. Project Needs

The first step is to consider the project needs. At the most basic level, a monitoring and documentation project will require interviewers to carry out the fact-finding and authors to draft the report. This section addresses these two roles. Some projects, however, may require other professional expertise, such as the following:

- Lawyers to provide advice to the organization or act as an initial consult for interviewees, for example, if there are potential criminal or immigration status consequences resulting from participation in the process;
- Psychosocial counselors to provide support to interviewees after an interview, if they are discussing difficult memories;
- Interpreters;
- Outreach personnel if there is a need to raise visibility, dispel misperceptions, or garner public support;
- Videographers or photographers to document images;
- Experts for analysis or assessments; and
- Editing and layout teams for the report.

It may be helpful for advocates to develop guidelines or checklists of requirements for team members, such as particular skills, background, or expertise. To better evaluate prospective team members, advocates should consider planning for a screening stage, including interviews. Advocates may request information from potential team members in advance, such as a resumes, statements of interest, or letters of recommendation. Careful screening will help prevent subsequent removal and changing of fact-finders—something that should be avoided if possible except where impropriety, such as breach of confidentiality or incapacity, occurs.⁵⁹

Every monitoring project will have unique characteristics that require different skill sets in fact-finders. There are certain attributes, however, so fundamental to monitoring that advocates should include these criteria for selecting fact-finders. At a minimum, team members should be able to commit their time, be flexible, and be available. If using volunteers, they should be able to commit their own resources if necessary, such as transport to and from interviews, time, and other incidental expenses. Monitors should be objective, neutral, and free of conflicts of

⁵⁹ Women, Law & Development, *Women’s Human Rights Step by Step*, *supra* note 39, at 145.

interest.⁶⁰ In some cases, organizations may consider developing a vetting process for the team. For example, where past perpetrators of human rights violations may be present in the community, advocates may wish to have prospective team members submit their names and resumes to an independent vetting committee with knowledge of the context of the conflict. Other relevant characteristics include fact-finders' experience as interviewers, their academic backgrounds, and their knowledge of the issues.⁶¹ Other key attributes include: good verbal and non-verbal communication skills; an ability to perform well under pressure, independently and as part of a team; a non-judgmental demeanor; familiarity with the affected population; aptitude for establishing rapport and connecting with interviewees; good conversational interviewing skills; and an ability to take control of an interview while being respectful to the interviewee.⁶²

ii. Team Composition

In evaluating the composition of the team, advocates should determine whether and to what extent to involve members of the affected community as fact-finders. In some cases, their involvement is appropriate or even necessary to achieve the project mandate. Many organizations have relied on members of the affected community to monitor and document human rights abuses with powerful results. On the other hand, advocates must assess the potential consequences for the affected population if they engage with the authorities in a role as monitors of the abuse. Regardless of the affected population's role, the monitoring project can have a positive impact on the community by raising public awareness and motivating action for social change.⁶³

Border Action Network: Involving Affected Community Members in Monitoring

Border Action Network is a membership-based organization that works with immigrant and border communities in southern Arizona. For Border Action Network, human rights monitoring and documentation is an integral part of a larger community process to prevent violations of human rights and create a culture of dignity and equality. In order to document human rights violations and educate communities about their human

rights, Border Action Network trains local residents to collect specific kinds of information on a standardized form. Upon completion of the training, volunteers are given materials to begin documenting abuses, as well as a t-shirt and photo ID card to identify them as a Human Rights Documenter. Volunteer Human Rights Documenters set up tables in public places like churches, schools, parks, and grocery stores to



A Border Action Network volunteer training

educate other affected community members about the need to report human rights abuses as the first step to preventing them. In addition, Human Rights Documenters invite individuals and families to confidentially report abuses committed by both public and private entities. Data gathered by the Human

⁶⁰ Ibid., 144.

⁶¹ Ellsberg and Heise, *Researching Violence Against Women*, supra note 33, at 159.

⁶² Ibid., 158–59, 162.

⁶³ Kaplan, *Human Rights Documentation and Advocacy*, supra note 38, at 25.

Rights Documenters is then entered into a database for analysis by a team of lawyers specializing in human rights, immigration law, and constitutional law.⁶⁴

In other cases, factors such as intra-community divisions may indicate that using a neutral monitoring team (without members of the affected community) will promote project success. It can promote the objectivity of the monitors, create a sense of visible neutrality, and help with getting both sides of the story. An independent third party may instill more objectivity and credibility in the findings and provide an opportunity for conflicting parties to meet and discuss the results. There are risks, however, that a neutral team lacking community members will not sufficiently understand the context. Such a team must also take into account the project's consequences for the community. In addition, if the monitoring team does not gain the community's trust, it may be difficult to obtain sufficient information to make accurate conclusions. In these cases, advocates should consider developing an outreach plan to engage the community.⁶⁵ There are other ways to overcome these obstacles, as discussed in later sections.

Generally speaking, the organization can use staff as team members, or it can rely on outside members of the community, partner organizations, academic institutions, firms and companies with *pro bono* resources, and volunteers. Advocates should consider what expertise, if any, the project demands. For certain kinds of abuses, such as those resulting in physical injury, advocates may find it useful to include team members with medical backgrounds. Where the particular human rights violation involves navigating the justice system, advocates may want to include lawyers on the team. Even when an area of expertise is identified, advocates must consider which individual experts to include and possible implications of those choices. For example, while having reputable authorities may lend credence to the mission, it may also attract unwanted attention.⁶⁶

Advocates should be aware of team members' public activities outside of their monitoring work and its possible effects on the team's neutrality. Where it is not possible for monitors to remain completely objective or impartial, advocates should examine potential biases with team members. These discussions should focus on recognizing any pre-existing notions that may hinder objectivity, so monitors can learn to address, minimize, and segregate those biases from their work.

Advocates should evaluate whether and what demographic traits will influence the fact-finding process. Demographic considerations such as age, linguistic ability, sex, and socio-cultural background may call for a monitoring team with members that have or lack those characteristics. Where appropriate, such as gender-based violence investigations, advocates may wish to select a fact-finding team representative of both sexes, so that females can interview females and males can interview males. Advocates should investigate beforehand whether having fact-finders from the affected population would be beneficial or detrimental to the fact-finding.⁶⁷

iii. Size of the Team

Advocates should evaluate the size of the monitoring team. Examining the scope of the project and the resources available can provide direction. Advocates should consider the management and oversight necessary for the size of the team they select.

⁶⁴ Border Action Network, accessed Jan. 17, 2014, www.borderaction.org; Interview with Border Action Network, Apr. 5, 2010; Border Action Network, *Human and Civil Rights Violations Uncovered: Report from the Arizona/Sonora Border* (Tucson, AZ: Border Action Network, 2008). Also available online at http://www.borderaction.org/PDFs/abuse_doc_2006.pdf.

⁶⁵ Eunice Cho et al., *Something Inside So Strong: A Resource Guide on Human Rights in the United States* (U.S. Human Rights Network, 2003), 49. Also available at http://www.ushrnetwork.org/sites/ushrnetwork.org/files/something_inside_so_strong.pdf.

⁶⁶ Women, Law & Development, *Women's Human Rights Step by Step*, *supra* note 39, at 144.

⁶⁷ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 157–58.

When constructing a report-writing team, advocates should take into account a number of considerations. Generally, using fewer authors in the report-writing phase can help streamline tone and style, as well as minimize repetition. The team of advocates may consider drawing upon a subset of the fact-finders as drafters, as they will have firsthand knowledge of the information and remember details or nuances from the monitoring. Using fact-finders as authors may not always be appropriate, depending on the number of fact-finders and their writing skills. It may be more effective to enlist a smaller team to write the report. Advocates should prioritize individuals with strong writing skills and prior experience in report-writing. It may also be helpful to engage people with expertise in the issue areas to write thematic sections, research particular areas for background information, or act as reviewers.

iv. Working with Volunteers

Working with paid team members has both benefits and drawbacks. The most salient drawback is that it requires financial resources. Compensating contractors as fact-finders may also compromise information quality. Fact-finders who receive payment on a per-interview basis may finish more interviews more quickly, but also may produce unfinished, brief, or inferior interviews. On the other hand, compensating fact-finders on a regular basis eliminates the incentive to maximize interview numbers and can result in higher quality product. It does, however, run the risk of exceeding projected costs if fact-finders work more hours than expected. One strategy for keeping the project within budget and timelines is to offer financial rewards for meeting expectations and producing quality work product.⁶⁸

Another alternative to paid team members is to use volunteers to carry out monitoring, documentation, and advocacy. Although volunteers provide free assistance, organizations should recognize that managing volunteers also requires time and financial resources. Some of the expenses involved in using volunteers include recruitment and training of volunteers, staff time to oversee and manage volunteers, basic overhead costs such as photocopying, postage, and office equipment, reimbursements for any costs incurred, and any type of volunteer recognition.⁶⁹ Advocates should think carefully about these hidden costs to ensure they have the time and resources to effectively use volunteers. In addition, advocates should consider whether they have a ready volunteer base—or a mechanism or partner by which to find volunteers—or whether they need to establish a system for this purpose.

Advantages to a Volunteer Program

To the volunteer	To the organization
Opportunity to give back to society and feel useful	Reach more people
Fills a gap in personal life	Expand the program e.g. outreach, workshops
Flexibility compared with a full time job	Full time staff can concentrate on the bigger picture
Intellectual stimulation and growth	Rich and diverse pool of experience to call on
Meet new, like-minded people	Frees up staff time to specialize in different areas
Actively contribute to education change	More time to develop and explore new methods
Provides job experience if unemployed/ student	Ready-made sounding board

⁶⁸ Ibid., 166.

⁶⁹ Volunteer Centre Camden, *Budgeting to Work with Volunteers* (Camden, England: Volunteer Center Camden), <http://www.volunteercentrecamden.org.uk/pages/top-tips-for-working-with-volunteers.html>.

Disadvantages and Difficulties in a Volunteer Program

To the volunteer	To the organization
The term “volunteer”	Recruitment of suitable people
Could take up too much time	Excluding unsuitable volunteers
Could feel under-valued	Hidden costs
Personality clashes	Extra training needs
Sense of not quite belonging to the organization	Different levels of training to be accommodated
Might not be keen on further training	Extra time needed to manage volunteers
Role may be unclear	Full time staff could feel the volunteers “take over”
May not be consulted on new policy affecting them	Legislation and unions
	Internal employment protocols

Reproduced with permission from: J. Howard, Environmental Education in Botanic Gardens Training Course, Kirstenbosch Botanic Garden, South Africa, in BGCI (1998), http://www.bgci.org/education/guide_to_using_volunteers/.

General tips when using volunteers in a project include the following:

- Instruct volunteers thoroughly on organizational protocols.
- Establish a process to screen volunteers and ensure they are an appropriate fit. Resumes, a general volunteer application or questionnaire, statement of interest, interview, and reference checks are a few examples of ways to evaluate whether a volunteer is right for the job.
- Invest the time upfront to recruit and train volunteers thoroughly. Getting off to a strong start with well-informed and prepared volunteers will have a positive impact on the project’s success.
- Be accessible to volunteers throughout the project. Check in regularly, be prepared to answer questions, provide feedback, and retain oversight of all components of the project.
- Always maintain control over the project. Establish a clear understanding of expectations on both the volunteer’s and organization’s part.
- Consider developing a statement of understanding or volunteer agreement for review and signature. At a minimum, the agreement should set forth the expectations for both the organization and volunteer. Other issues may be included:
 - Nature of the relationship between the organization and volunteer;
 - Intellectual property issues (ownership/authorship of work-product);
 - Confidentiality;
 - Liability;
 - Termination;
 - Other related laws; and
 - Compensation or reimbursement of expenses.
- Continue to affirm volunteers’ value to the project. Explore ways to recognize volunteers’ contributions, whether recognition in the organizational newsletter, the acknowledgements section of a report, or a post-project celebration.

Step 5. Develop an Interview Protocol.

An interview protocol should include overarching guidelines that address the fact-finder’s demeanor and approach. Good interviewing requires the interviewer to be non-judgmental, to connect with the interviewee, and to communicate complicated issues clearly. Interviewers should also be professional, polite, and

knowledgeable.⁷⁰ In general, interviewers should be prepared to carry out the interviews, be knowledgeable about the context in which violations took place, and be respectful to the interviewee. Creating a set of these considerations can guide interviewers in how they conduct themselves, before, during, and after the interviews. Finally, pilot-testing interview questions with team members can help reinforce the protocol and how to apply it in various situations. Running through a trial test will also help advocates determine if questions are phrased clearly, and if they are eliciting relevant information.⁷¹

i. Developing Interview Questions

After the advocate has determined what information is needed and how to obtain it (see Step 1 on page 18), the next steps are to outline topics to be covered in an interview and draft interview questions.⁷²

Advocates should construct different types of questions to elicit broad, comprehensive information on relevant topics. For example, interview questions can be designed to:

- Determine the nature and extent of the human rights abuses;
- Establish the causes and risk factors that contribute to or exacerbate the human rights violation;
- Learn the consequences that result from that human rights violation;
- Target structural issues, such as the laws or systems;
- Seek clarification about the laws, such as vague language or how government actors interpret these uncertainties in practice;
- Elicit information on how pre-identified flaws in the law or policy play out in practice;
- Seek clarification about procedures, guidelines, protocols, and trainings, and remind interviewers to obtain copies of any official documents or template forms during the interview;
- Seek quantitative information to obtain estimates, such as asking police about the number of cases related to a particular issue they respond to each week;
- Learn what efforts NGOs and other advocates are making to respond to the human rights violations; and
- Determine the respondents' views about public perceptions, victim needs, and recommendations for change.

If the project mandate is investigating a specific event or victim experience, one set of uniform interview questions may be appropriate. The questions should correspond appropriately to the violation under investigation.⁷³ Depending on the project mandate, however, advocates may need to develop different question sets for each information source. For example, separate question sets may be needed for different groups, such as judges, prosecutors, police, lawyers, community activists, victims, witnesses, perpetrators, advocates, and religious leaders. If so, advocates should assess what information is needed and what each group can provide. Advocates can then develop tailored questions. Knowing the different interviewee groups will also influence the approach. For example, gaining government access to documents or sites or bringing up human rights violations requires the interviewer to take a proactive approach.⁷⁴ Asking government representatives highly specific questions and giving them as much time as possible to speak will help interviewers gauge the government's position on a

⁷⁰ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 148; Women, Law & Development, Women, Law & Development, *Women's Human Rights Step by Step*, *supra* note 39, at 148.

⁷¹ U.S. Office of Personnel Management, *Structured Interviews: A Practical Guide* (Washington D.C.: U.S. Office of Personnel Management, Sept. 2008), 14.

⁷² The Advocates for Human Rights, "Human Rights Monitoring: Documenting Domestic Violence as a Human Rights Abuse," The Advocates for Human Rights, February 2008 (unpublished PowerPoint presentation on file with The Advocates).

⁷³ D. Ravindran, Manuel Guzman, and Babes Ignacio, eds., *Handbook on Fact-Finding and Documentation of Human Rights Violations* (Philippines: Asian Forum for Human Rights and Development (FORUM-ASIA), 1994), 34.

⁷⁴ Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 49.

particular issue.⁷⁵ When interviewing perpetrators and officials, interviewers should be receptive to information that both supports and contradicts the issues under investigation.⁷⁶

Advocates can also ask open-ended questions and simply allow interviewees to describe their experiences in a narrative style.⁷⁷ This approach may be more appropriate when interviewers are seeking experiences or information about a specific event. Even so, advocates should consider including a set of specific follow-up questions to ensure the story is as detailed as possible or to establish the basis of a complaint.⁷⁸ Follow-up questions for victims or witnesses' accounts of events should focus on:

- The perpetrators and relevant details such as identifiers, distinctive dress, number of perpetrators, presence of weaponry, names, unit, and other witnesses;
- Details of what transpired, including threats or harm against the interviewees or their families;
- Length of harm, type of violence, weapons used, and body parts targeted;
- Short and long-term effects;
- Demands made; and
- Conditions of transfer and/or confinement.⁷⁹

In general, the following guidelines may be helpful for advocates as they develop their interview questions:

⁷⁵ Ibid.

⁷⁶ Ravindran et al., *Handbook on Fact-Finding and Documentation of Human Rights Violations*, *supra* note 73, at 38.

⁷⁷ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring*, *supra* note 28, at 116.

⁷⁸ Office of the High Commissioner for Human Rights, "Basic Principles of Monitoring," *supra* note 28, at 117.

⁷⁹ Ibid., 118.

Human Rights Monitoring Interview Question Guidelines

DRAFTING QUESTIONS

- Questions should be open-ended, non-leading, and non-inflammatory. Use as few yes or no questions as possible.⁸⁰
- Avoid framing questions in a judgmental or aggressive tone. Practitioners should anticipate that some interview questions may stir up feelings of trauma or sadness and should craft questions that are understanding in tone.⁸¹
- Craft interview questions to be concise, easy-to-understand, and as clear as possible. Avoid lingo, slang, and emotionally loaded words. Use ordinary language and terms familiar to the respondent.⁸²
- Do not ask questions that are outside the mandate.
- Consider framing the same question in varying ways. Rephrasing and posing a question in different ways during the interview can also help evaluate credibility.⁸³
- If applicable, include a map or diagram to facilitate questioning and responses about events.
- Consider asking an expert or other appropriate person to vet questions beforehand to ensure that they are relevant and comprehensive.

SEQUENCE

- Include an introductory script at the top of questions that introduces the interviewers and the organization, describes the project mandate, explains how the information will be used, explains what the interviewer can and cannot do with the information or case, and explains issues of confidentiality.
- Lead off with more non-controversial and less sensitive questions.⁸⁴ For example, asking interviewees to describe their work and duties is an initial question that helps set a comfortable tone.
- Prioritize the most pressing questions in terms of question order.
- Ask for stories without compromising confidentiality. The use of experiences can help illustrate and lend credence to conclusions.
- Be prepared to deviate from the question set if needed during the interview to obtain clarification or more details.⁸⁵

CONCLUDING QUESTIONS

- Ask if the interviewee has other additional names to recommend for an interview or other sources.
- Ask if the interviewee has anything else to add.
- Allow the interviewee time to ask questions of the interviewer.⁸⁶

⁸⁰ Kaplan, *Human Rights Documentation*, *supra* note 38, at 44; Ravindran et al., *Handbook on Fact-Finding*, *supra* note 73, at 32.

⁸¹ Ravindran et al., *Handbook on Fact-Finding and Documentation of Human Rights Violations*, *supra* note 73, at 34.

⁸² *Ibid.*

⁸³ Office of the High Commissioner for Human Rights, "Basic Principles of Monitoring," *supra* note 28, at 117.

⁸⁴ *Ibid.*

ii. Setting up the Interview

The first step in setting up an interview is to identify who should be interviewed. Organizations should seek to interview “all sides” when fact-finding. They should keep in mind that the other side may not necessarily be the perpetrator who directly committed the violation. It may mean interviewing government actors about their response to the event. It may also mean interviewing members of the general community to gauge their impressions and opinions.

There are several methods for identifying interviewees. One strategy is to map out the different sectors and main actors involved in the human rights violation and the response. Using the map, advocates can visit websites or call organizations to identify the primary persons handling that aspect of the issue. Advocates may look to secondary publications to identify experts to contact for interviews or interviewee recommendations. Advisory committee members or others involved with the issue may suggest names. Advocates may also produce an interview request form that allows potential respondents to contact the organization directly, making it available on the internet or at appropriate venues. Because there is no direct person-to-person interaction, the request form should provide information about the organization, project contact information for staff team, and directions on how to return the form. The organization should evaluate the project to determine which of these means are the most appropriate.

Advocates should be sensitive to the time requirements of each interview and estimate the time each interview will require based on the list of questions.⁸⁷ Pilot-testing interview questions will help determine how much time to allot each interview. Advocates should plan to interview only one person at a time.⁸⁸ When scheduling the interview, advocates should confirm that the respondent has the time available to participate in the interview.⁸⁹ They should also avoid planning too many interviews in a day and leave sufficient time for interviews that run over time, travel and transition between interviews.

a. Outreach

Advocates should evaluate whether outreach or a public statement on the project may be beneficial. Outreach can dispel mistrust and promote participation in the process. Increasing visibility through outreach or media may also facilitate access to high-ranking individuals.⁹⁰ Alternatively, the organization may not want to draw attention to the investigation in cases in which publicity may potentially cause harm to interviewees. Advocates can vary the level of publicity, for example, informing the public that the study is taking place, but not giving specific details about the methodology or the individuals participating in the research.⁹¹

Practitioner’s tip: Some questions advocates should ask themselves when gauging levels of visibility include:

- What are the benefits of raising visibility for the project and the affected population or participants?
- What are the negative consequences of raising visibility for the project and the affected population or participants?

⁸⁵ Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 45–46.

⁸⁶ The Advocates for Human Rights, “Human Rights Monitoring: Documenting Domestic Violence as a Human Rights Abuse,” *supra* note 72; Ravindran et al., *Handbook on Fact-Finding and Documentation of Human Rights Violations*, *supra* note 73, at 33; Office of the High Commissioner for Human Rights, “Basic Principles of Monitoring,” *supra* note 28, at 117.

⁸⁷ Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 41–42.

⁸⁸ Women, Law & Development, *Women’s Human Rights Step by Step*, *supra* note 39, at 147.

⁸⁹ Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 41–42.

⁹⁰ Prestholdt, *Familiar Tools, Emerging Issues*, *supra* note 34, at 12.

⁹¹ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 39.

- What is the nature of the project and what types of questions will be asked?
- Will the nature of the project or questions place people at risk?
- What resources, skills and relationships are available to increase visibility in these ways?

Advocates can use various means of outreach to inform the broader public of the project. Holding town hall meetings, speaking at religious services and public events, scheduling publicity on radio shows or in print publications, and going door-to-door to speak to people are a few ways to reach out to the community. Advocates should also evaluate whether using electronic or other written forms of communication are appropriate for the project.

b. Designing an Interview Format

Selecting an Interview Location

As a general rule, the interview should be conducted in private. Interviewers may need to establish safe, off-site venues for interviewing, such as churches, mosques, synagogues, libraries, community centers, or schools that have private spaces. Generally, the interviewee should be allowed to select the time and place of the interview. It may be the interviewee's home, the interviewer's office, or a separate, third venue. Interviewers should suggest an alternative place if they feel that privacy or security will be compromised in the location chosen by the interviewee. For example, an interviewee who suggests a café should be informed that that venue may be noisy, requiring both parties to speak loudly about what could be potentially sensitive or personal topics, creating a risk of having others overhear the interview. If the interviewee insists on holding the interview in a space where others are nearby, interviewers should seek to conduct it out of the hearing range of others.



Some questions advocates should ask themselves when deciding on an interview location include the following:

- Is it accessible to the interviewee?
- Is it secure in that no one's physical safety will be compromised?
- Is there a chance of being overheard?
- Is there a chance the interview will be subject to interruptions?
- Will the interviewee be comfortable in the environment?

Keep in mind that different interviewees will feel comfortable in different settings; some people may prefer to speak in the privacy of their home, while others may prefer a neutral setting in another location.

Informed Consent

Advocates should always take steps to ensure that respondents give informed consent prior to participation. Informed consent involves providing the respondent with clear and accurate information about who the interviewer

represents, why the interview is taking place, and what the outcome will be.⁹² Informed consent may minimize any potential harm to the interviewee by creating appropriate expectations and ensuring that the interviewee's participation is voluntary.⁹³ The interviewer should explain to the respondent the extent to which the information will remain confidential.⁹⁴ In some cases, such as those involving high-level officials or authorities in remote areas, it may not be realistic to withhold the identity of the interviewee, in which case the interviewer should inform the interviewee and obtain his or her consent to proceed with the interview.

Advocates should develop an informed consent form for the respondent to read and sign or initial. In addition to the information above, suggested topics the informed consent form may include are:

- Basic information about the project;
- What will happen to the information from the interview;
- How and for what length the interview information will be stored;
- Confidentiality;
- The role of the interviewers;
- Expectations of what the organization can and cannot do;
- Disclosure of potential consequences of participating in the interview;
- A reminder that participation is voluntary;
- A reminder that interviewees may skip a question they do not want to answer or end the interview at any time;
- Information about potential re-traumatization; and
- Confirmation that the respondent will provide an accurate and truthful interview to the best of his or her knowledge and recollection.

The informed consent process may also include standardized consent questions allowing respondents to designate the level of confidentiality for the information they provide, including whether they want to remain anonymous. An advocate can give the form to the respondent to read or read it to the respondent.

Practitioner's tip: If respondents wish to remain anonymous, they should be given the option of signing their name on the informed consent form, making a verbal attestation as verified on the form by the advocate, or indicating consent in an alternative manner.

The informed consent process may also include standardized consent questions allowing respondents to designate the level of confidentiality for the information they provide, including whether they want to remain anonymous. An advocate can give the form to the respondent to read or read it to the respondent.

Documenting the Interview

Choosing a method by which to document or record the interview requires some degree of consideration. Recording tools can vary and include writing, audio recording, video recording, photography, sketches, and online mediums. Advocates should ask themselves:

- Whether they can effectively take handwritten notes and still capture details?
- Do they have the electronic infrastructure and funding to use electronic means?
- If using an audio or video recorder, can confidentiality be guaranteed? Is there a reason to think this method of recording will have a chilling effect on interviewees?

⁹² Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 41.

⁹³ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 36.

⁹⁴ Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 41. Advocates may wish to explain the organization's citation to interviewees as part of informed consent. For example, the advocate may explain that the only identifying information to be cited will be the respondent's general title (if applicable), city and date.

The type of recording tool will depend on the type of monitoring and the project mandate. Monitoring may include interviews, visual inspection, process observation, collection and review of materials, photography, audio-visual or other recording, forensic examination, or any combination of these methods.⁹⁵ Advocates should consider the advantages and disadvantages of all types of recording an interview.

METHODS FOR INTERVIEW DOCUMENTATION:



Video. In some cases, video/audio recording will be the appropriate means of fulfilling the mandate, especially when safety is not a concern. For example, an oral history project records the stories as told by the sources themselves. Advocates can make these available as transcribed, streaming audio, or video.⁹⁶ Unedited videos can be housed in libraries or other archives.



Audio. Using audio equipment facilitates greater accuracy by documenting every word. However, using an audio recorder may have a chilling effect on some interviewees and may hinder their responses. Also, using audio equipment requires interviewers to be prepared to contend with technical requirements, such as making sure a battery is fully charged or ensuring there is an electrical source nearby. Audio equipment may also require an initial investment in the equipment itself, as well as additional time and personnel to transcribe or listen to the interview after it takes place.



Standardized Forms. Using a standardized form can facilitate collection of consistent data sets, as it provides the monitor with a set of pre-determined information fields to fill. It also efficiently packages the information for a basic quantitative analysis. Advocates can use standardized forms as a mechanism to monitor and document human rights violations.⁹⁷ Such forms can also be used for intake purposes⁹⁸ or in combination with other forms of documenting the interview. When asking questions or filling in information, the advocate does not need to follow the order in which the questions are listed but should at least remain cognizant of the form to promote completeness.⁹⁹ If the situation calls for additional space or information, additional information can be recorded on a separate sheet of paper to be appended; the appendix should identify the source by a record number rather than the complainant's name.¹⁰⁰



Handwritten Notes. Handwritten notes may allow interviewees to feel more comfortable and be more forthcoming in their responses. Also, having a notebook in hand facilitates diagramming, sketches, and maps to illustrate an event. On the other hand, it may be difficult for the interviewer to capture all the details and quotes. One way the interviewer can address this problem, however, is simply to pause the interview and ask the interviewee to repeat the statement. Also, handwriting notes will require that the interviewer invest time afterward to type up the notes or enter them into a database.



Electronic Notes. Typing notes on a computer can facilitate greater accuracy in recording details or quotes. It can save interviewers time, since the majority of the notes will have been typed up simultaneously during the interview and may require only review and minor edits. Advocates should be aware of any potential chilling effects these devices may have and ensure the interviewee is comfortable with their use during the interview. As with audio equipment, using a laptop requires interviewers to be prepared to contend with technical requirements. Interviewers will need to make the initial investment in the equipment itself. If the organization decides to type its interviews, the interviewers should take steps to safeguard confidentiality by protecting interview notes through coding systems or passwords and should take appropriate steps to back up data.

! DO NO HARM !

Advocates should be aware of the heightened risks for confidentiality when using audio/video documentation. They should consider the risks of compromising interviewees' safety if the recording reveals their identities and should take measures to safeguard this information. Also, interviewers should seek to limit recording to what is needed for the project.¹⁰¹ Interviewers who record using audio equipment should discuss the risks and the measures undertaken to protect confidentiality, as well as how the recording will be stored and used, prior to obtaining the interviewee's consent to be recorded.¹⁰²

⁹⁵ Guzman and Verstappen, *What is Documentation*, *supra* note 30, at 19.

⁹⁶ ACT UP Oral History Project, "About," accessed Jan. 17, 2014, <http://www.actuporalhistory.org/about/index> (for example).

Using Interpreters

If translation is needed, advocates should find a qualified interpreter who understands the terminology specific to the issue being investigated. The interpreter's role is to neutrally and objectively facilitate communication.¹⁰³ Interpreters should be held to the basic principles of human rights monitoring as fact-finders.

When selecting interpreters, advocates should ensure that they have the fundamental skills needed to interpret in an accurate and sensitive manner. Interpreters should be appropriate to the context, and not, for example, come from a population group that may intimidate interviewees or hinder their responses.¹⁰⁴ For example, using an interpreter from an ethnic group with historical conflicts with the interviewee's ethnic group may inhibit or offend the interviewee. Similarly, using an interpreter with a well-known past role in the government may intimidate potential respondents and limit their participation in the process.

Vetting an interpreter is an important safeguard to ensure that there are no conflicts of interest or risks of harm. Advocates should also ensure that interpreters are not personally intimidating. Advocates should understand the dynamics of the community and abuse; for example, a rape victim may be more comfortable speaking through a female rather than a male interpreter. Ultimately, advocates may find it necessary to use interpreters who do not live in the area under investigation.¹⁰⁵

Advocates should draw up guidelines for interpreters and provide the following instructions:

- Respect confidentiality.
- Ensure accuracy and completeness. The interpreter should translate everything that is stated and inform the interviewee that he or she will do so. Interpreters should not summarize the interviewees' words, but translate as closely as possible to the original words. Interpreters should understand it is essential to convey the exact spirit and meaning of the words. The interpreter should ask the interviewee to pause to allow him or her to translate as needed.
- Be impartial. If an interpreter cannot interpret impartially, the advocate should not invite the interpreter to participate in the project or should even ask them to withdraw. The interpreter should never tell the interviewee what to say. The interpreter should avoid judgment.
- Be professional. Interpreters should maintain professional boundaries and avoid helping the client outside of the project mandate.¹⁰⁶
- Attend any applicable trainings and read training materials.
- Review pertinent vocabulary and become familiar with the context.
- Speak clearly in a normal voice that both parties can hear.
- Clarify the meaning of special terms or words with the interviewer and interviewee as needed.
- Speak in first person.
- Self-monitor and correct as needed.¹⁰⁷

⁹⁷ Office of the High Commissioner for Human Rights, "Part Three: The Monitoring Function," in *Training Manual on Human Rights Monitoring*, *supra* note 28, at 103.

⁹⁸ Office of the High Commissioner for Human Rights, "Appendix 1 to Chapter XX of OHCHR," in *Training Manual on Human Rights Monitoring*, *supra* note 28.

⁹⁹ *Ibid.*, 103.

¹⁰⁰ *Ibid.*, 104.

¹⁰¹ Columbia University/Columbia Medical Center, "Institutional Review Board Policy/Procedure: Audio/Video/Photographic Recording of Human Subjects," 1 (Effective Apr. 12, 2005).

¹⁰² *Ibid.*, 2–3.

¹⁰³ Ravindran et al., *Handbook on Fact-Finding and Documentation of Human Rights Violations*, *supra* note 73, at 36.

¹⁰⁴ Women, Law & Development, *Women's Human Rights Step by Step*, *supra* note 39, at 145.

¹⁰⁵ Office of the High Commissioner for Human Rights, "Basic Principles of Monitoring," *supra* note 28, at 113.

¹⁰⁶ The Advocates for Human Rights, "Interpretation/Translation," (Minneapolis: The Advocates for Human Rights) (unpublished, on file with The Advocates).

Conducting the Interview

Ideally, a two-person team should conduct the interview: one person to lead the interview and ask questions and the second person to take notes and ask follow-up or clarification questions if necessary. Working in teams can promote accuracy for the interviewee, as well as security in areas deemed risky. In some cases, a third person, such as an advocate or support person, may also be present. Advocates should ensure interpreters know and understand the ground rules for interpretation.¹⁰⁸ Where only one person is available to conduct an interview, that person should proceed with the interview, taking time as needed to record details and ask for clarification when needed.

Before the interview begins, the interviewer should make introductions, describe the project and its mandate, explain the interviewer's role, reassure the participant of procedures to maintain confidentiality, review the informed consent process with the interviewee, and underscore the importance of details during the interview.¹⁰⁹ It may be helpful to prepare a checklist for team members to carry into interviews to ensure they cover all points with the respondent.

At the start of the interview, the interviewer should record basic details about the interview, such as the following:

- Name of the interviewer(s);
- Name of the interviewee(s);
- Title and associated organization of the interviewee(s);
- Name of the interpreter, if applicable;
- Location where the interview took place;
- Date and interview start time; and
- Contact information.

Whether the record should include additional attributes of the interviewee will depend on the mandate and project goals. Examples of other traits that may be relevant are age, sex, occupation, place of origin, religion, nationality, ethnicity, language, familial status, immigration status, education levels, and income. Advocates should ask the interviewee which data may or may not be used.¹¹⁰

The protocol should include whether the interview notes will be recorded in first or third person. In general, recording an interview in first person can capture the person's words as stated and facilitate greater accuracy in quotes. Also, entering personal notes about follow-up, credibility, and references to other data is a good way to record the interviewer's reflections, but such notations should be clearly set off in brackets or double parentheses to reflect that it comes from the interviewer, not the interviewee.¹¹¹

As part of the protocol, advocates should develop and adhere to a controlled vocabulary. A controlled vocabulary reconciles synonymous terms and will facilitate the end processing of the information. For example, fact-finders and respondents may use different terms interchangeably to describe the same concept: domestic abuse and domestic violence; perpetrator and offender; and penal code and criminal code. During the analysis phase, an advocate searching for one term may not identify a record that uses the alternative term. By developing a controlled vocabulary that dictates which word will be used, advocates can make the monitoring process more effective.

¹⁰⁷ Ibid.

¹⁰⁸ See the Section on Using Interpreters on the previous page.

¹⁰⁹ Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 41.

¹¹⁰ Ibid., 46.

¹¹¹ Matthew B. Miles and A. Michael Huberman, *Qualitative Data Analysis* (Newbury Park, CA: SAGE Publications, Inc., 1984), 64–65.

During the interview, advocates may take several steps to promote credibility. They should test the internal consistency and coherence of the narrative. Asking the same question different ways can help interviewers gauge the credibility of an interviewee.¹¹² Advocates might also consider establishing a mechanism to detect potential problems in the monitoring phase that might affect credibility, such as team members recording false or inaccurate information, not adhering to the protocol, or failing to complete work.¹¹³

Finally, the interviewer should keep in mind the following guidelines throughout the interview:

- Build rapport and be patient. Maintain eye contact and sit level with the interviewee.¹¹⁴ Letting the respondent state what he or she believes is significant, even if not germane to the mandate, can bridge a connection between the interviewer and interviewee.¹¹⁵ Allow the interviewee to tell the story and answer questions at his or her own pace. Do not rush the interview.¹¹⁶
- Avoid judgment or evaluation.¹¹⁷ Be aware of non-verbal signals (by the interviewer), such as facial expressions that reveal shock or judgment.
- Do not interrupt the interviewee.¹¹⁸ If questions or confusion arise, make a note to ask when the interviewee is finished speaking.
- Do not push the interviewee.¹¹⁹ If an issue is too sensitive, come back to it later. Remember this is not a prosecution; do not cross-examine the interviewee.
- Be sensitive to cultural differences.¹²⁰ For example, in some cultures, it may be disrespectful to look authorities or elders in the eye when speaking. Be aware of and sensitive to these differences.
- Obtain as much relevant detail as possible. Verifying and recording the names and titles of people, places and dates will help preserve the information more accurately. Verify spelling when needed. If appropriate and helpful to better depict the event, interviewers may request the interviewee to sketch a diagram or picture or use gestures to describe the event to be described in the interview notes.¹²¹
- Ask questions to clarify. This may be the only and last opportunity the interviewer has to speak with the interviewee, thus clear up confusion or obtain more detail at the interview.
- Use your observation skills. If relevant to the project's objectives, observe and describe the interviewees' physical and psychological symptoms during the interview.¹²² During the interview, evaluate the overall demeanor and credibility of the interviewee.¹²³
- Respect confidentiality at all times. Never discuss with interviewees what other interviewees have revealed. It violates the principle of confidentiality, and it also diminishes the interviewer's credibility.¹²⁴
- Treat each interview as though it will be the last with that person. Be adequately prepared, strive for optimal interview conditions, and be thorough.¹²⁵
- Know when to stop.¹²⁶ If the interviewer begins to lose control of the situation, be prepared to stop the interview and either restart after regaining control or reschedule.

¹¹² Office of the High Commissioner for Human Rights, "Basic Principles of Monitoring," *supra* note 28, at 105.

¹¹³ Rosenblum, *Monitoring Labour Rights: A Resource Manual for NGOs*, *supra* note 50, at 25.

¹¹⁴ The Advocates for Human Rights, "Human Rights Monitoring: Documenting Domestic Violence as a Human Rights Abuse," *supra* note 72.

¹¹⁵ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring*, *supra* note 28, at 116.

¹¹⁶ The Advocates for Human Rights, "Human Rights Monitoring: Documenting Domestic Violence as a Human Rights Abuse," *supra* note 72.

¹¹⁷ *Ibid.*

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ The Advocates for Human Rights, "Making the Global Local" (unpublished powerpoint presentation on file with The Advocates).

¹²¹ Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 45, 47.

¹²² Office of the High Commissioner for Human Rights, "Part Three: The Monitoring Function," *supra* note 97, at 106.

¹²³ The Advocates for Human Rights, "Making the Global Local," *supra* note 120.

¹²⁴ Women, Law & Development, *Women's Human Rights Step by Step*, *supra* note 39, at 47, 149.

¹²⁵ Kaplan, *Human Rights Documentation and Advocacy*, *supra* note 38, at 40.

¹²⁶ The Advocates for Human Rights, "Human Rights Monitoring: Documenting Domestic Violence as a Human Rights Abuse," *supra* note 72.

At the end of the interview, interviewers should ask if the respondent has anything else to add, any suggestions for other people to interview, and any questions for them. Interviewers should thank the respondents and provide referrals if appropriate.

Referrals

When working with an affected group that is likely to be in need of services, such as social, psychological, or financial, the advocate should be prepared to provide referrals while respecting the interviewees' autonomy and confidentiality.¹²⁷ Referrals for support can include emergency phone numbers, child care services, clothing resources, food shelves and free meals, health care, counseling services, employment services and programs, housing referrals, legal assistance, services for new immigrants, and other resources specific to the target population. Advocates may want to develop a standard referral form listing community resources and phone numbers to have available at interviews. Where support resources are lacking, advocates should consider establishing short-term support structures through volunteer services or collaborations with appropriate agencies.¹²⁸

c. Handling Difficulties

Advocates should develop guidelines for addressing common problems that may arise during interviews. Guidelines should instruct interviewers to remember their duty to maintain control over the interview. They should balance this responsibility with other principles and remind interviewers to remain sensitive and professional at the same time.

Advocates should prepare in advance for difficult or hostile interviewees. In this situation, the interviewer should maintain professionalism and avoid judgmental responses. Interviewers can help defuse tension in the interview by providing context to build trust, demonstrating an understanding of the challenges, backing up and engaging in "small talk" if appropriate, and rephrasing questions. If all else fails, the interviewer should end the interview and seek to reschedule.¹²⁹

Developing ground rules on how to minimize or prevent interruptions during the interview is an important measure when the interviewee does not wish her participation to be known or the communications are sensitive. Before the interview begins, interviewers should advise the interviewee of how they will handle interruptions. Should an interruption occur, interviewers should be prepared to end the interview or switch to a safe discussion topic. Interviewers can use other team members to divert the attention of other household members who are present.¹³¹

In some cases, the interviewee may need and want to bring others along to the interview. For example, the interviewee may need to bring small children along, in which case the interviewer should consider bringing toys, candy, or coloring books to distract them. If the interviewee brings along an advocate or support person, the interviewer

Practitioner's tip: Interviewers should also bring tissues and water when the interview will be long or emotionally difficult for the respondent. Also, interviewers may be on a tight schedule or interviews may run longer than expected. Bringing snacks and having a cell phone on hand will help interviewers navigate through a busy day. They should also stay flexible and arrange breaks to relax as needed.¹³⁰

¹²⁷ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 36–39; Women, Law & Development, *Women's Human Rights Step by Step*, *supra* note 39, at 149.

¹²⁸ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 36.

¹²⁹ The Advocates for Human Rights, "Human Rights Monitoring: Documenting Domestic Violence as a Human Rights Abuse" *supra* note 72.

¹³⁰ Women, Law & Development, *Women's Human Rights Step by Step*, *supra* note 39, at 145.

¹³¹ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 39, 173.

should establish that the purpose of the interview is to obtain information from the designated interviewee and clarify the role of the third person as that of support.

d. After the Interview

Advocates should type up, transcribe or process their interview notes as soon as possible to promote accuracy. Interviewers should review their notes and seek clarification from the other team member present at the interview. They should make any notes about credibility and identify gaps to determine whether there is a need for follow up.¹³² Team members should debrief with each other either daily or on a regular basis and evaluate the process for gaps or unexpected hurdles.

Step 6. Training the Monitoring Team.

Training the fact-finding team is an important stage in the monitoring process. Advocates should invest time and thought into developing an appropriate and thorough training program to accomplish the following:

- Sensitize fact-finders to the human rights issues;
- Train fact-finders on the project mandate, methodology, and interviewing; and
- Develop a sense of team and motivation among team members.¹³³

In general, the training program should include the following:

- Information about the organization, project, its mandate, and protocol;
- Expectations;
- Background on international human rights standards;
- Information about the particular human rights violations to be investigated and the specific context;
- Ethical considerations;
- Re-traumatization, vicarious traumatization, and stress management; and
- Practical instruction on how to carry out fact-finding.

Developing a training manual with information on these issues, plus contact information for the organization, can be an important resource for team members. If resources are limited, organizations can create CDs with the training information or upload materials to a secure online location to save printing costs. Also, advocates may consider videotaping the training and making it available on DVDs or online video streaming. Advocates should keep in mind, however, that print or video materials cannot replace the value of live training that allows trainees to ask questions and to work with other team members.

i. Information on the Organization, Project, Its Mandate, and Protocol

Training should describe the organization and project, including project origins, scope, objective, timeline, and final outcome, and provide team members with copies of this information for later reference. The training should also instruct team members on the protocol for conducting fact-finding. Ensuring that team members know and understand the project and its protocols is an important means of maintaining credibility and ensuring adherence to the project mandate.

Advocates should give team members tools to help illustrate and reinforce these messages. Providing team members with organizational brochures, annual reports, or a recent report can help promote an understanding of the organization. Developing a set of answers to “Frequently Asked Questions” about the organization and project may be helpful for team members to understand the project and prepare them to respond to questions they

¹³² The Advocates for Human Rights, “Making the Global Local” *supra* note 120.

¹³³ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 159.

encounter. Organizations may also provide team members with reference packets about the organization, project, and mandate for team members to carry while fact-finding.

ii. Expectations

Trainings should communicate both what the organization expects of the team member and what the team member may expect from the organization. It may be useful to delineate a statement of the understanding to communicate to team members before the monitoring begins.

A statement of understanding should begin by confirming the agreement between the organization and the team member regarding the fact-finding project. It should describe the purpose of the project and its expected timeline. The statement of understanding should outline the commitment of the organization to the project. The specific obligations of the organization may include the following:

- To assist in preparing the objectives and details of the fact-finding project and the team member's participation, including the organization's expectations of what the project will accomplish;
- To provide briefings on practical advice concerning the human rights project;
- To supply briefing materials including background information for the project and resources for referrals to service providers as needed during the course of fact-finding; and
- To communicate protocols and procedures and any changes to the team members.

The statement of understanding should also include the commitment of the team member to the project. These obligations may include the following:

- To prepare background and preparatory materials as agreed;
- To complete the training;
- To read and review background and preparatory materials provided and refer to them as needed;
- To keep all information related to the project confidential and to agree not to disclose any information about the interviewees or the interview content to anyone outside of the organization staff or other members of the team;
- To contact the organization should any unusual circumstances arise during the project;
- To keep a record of all pertinent information obtained during the project, subject to the need for confidentiality to protect project contacts, including the names and addresses of all contacts made throughout the project and notes of the interviews to which delegate is assigned;
- To comply with the protocols and procedures as established by the organization;
- To respect all boundaries and not enter into a client-attorney, patient-medical provider, or other relationship with the respondent outside of project scope;
- To complete a certain number of hours or interviews within a specified timeframe;
- To complete his or her work according to the project protocol;
- To return all completed interview notes and work product to the organization in a timely manner;
- To demonstrate communication and flexibility, accept changes to the protocols and procedures as they arise, and work cooperatively with other members of the team at all times;
- To understand that vicarious trauma is a possibility when conducting fact-finding;
- To coordinate all communications about the project with the organization, forward all media or other public requests to the organization, and agree not to speak on behalf of the project without specific authorization by the organization;
- To submit an expense report for any reimbursable expenses to the organization within a specified deadline;

- To assist with the final fact-finding and documentation report; and
- To assist with advocacy activities related to the project.

The training should address the expenses, if any, the team member is responsible for paying and the expenses the organization will reimburse, such as travel, lodging, and per diem expenses. If the organization is compensating fact-finders, it may want to develop an employment agreement for team members.

Depending on the project, the organization may wish to address any potential risks and ensure the monitor understands there may be potential risks involved in the project. It may consider drafting a waiver agreement that releases the organization from any claim or right of action arising from or by reason of any physical harm, physical detention, health problem, or property loss which results from participation in the project.

It may be helpful for organizations to codify these expectations in a formal written statement of understanding for all team members to review and sign prior to committing to the project. If possible, organizations should have an attorney review the agreement.

iii. Background on International Human Rights Standards

The training program should address human rights and the relevant international standards. There are numerous tools available for training on human rights. For example:

- The Office of the High Commissioner on Human Rights offers educational materials on its website, information on human rights basics, and thematic fact sheets.¹³⁴
- DiscoverHumanRights.org includes several free resources, including a human rights toolkit, human rights primer, information on the human rights system, and human rights in the U.S.¹³⁵
- The Urban Justice Center's Human Rights Project has developed numerous tools and trainings about human rights standards and strategies for using them to advance domestic policy.¹³⁶

iv. Information about the Particular Human Rights Violations to be Investigated and the Specific Context

The training for the monitoring team should describe the human rights violations to be addressed by the project, including both the defined issue and all the associated violations. For example, a project investigating sex trafficking would address not only the human rights violation of trafficking itself, but also other abuses such as sexual assault, general assault, kidnapping, and false imprisonment. Advocates can develop their own tools or use news articles and reports to provide examples of how the problems manifest themselves.

Where relevant, the training should cover the timeline or key events leading up to or contributing to the human rights violations. The timeline should include all relevant occurrences, such as social, legal, and political events, historical root causes, incidents of major human rights violations, and economic factors. It should also address the context, local conditions, key players, and stakeholders. For example, context may include the local community dynamics, general attitudes and perceptions, or availability of victim resources.

Where relevant, the training should also address the federal and local laws governing the issue, as well as official protocols, guidelines, and other policies. Advocates should think inclusively about all possible instruments that may govern an issue. For example, a project monitoring domestic violence should address the following: criminal

¹³⁴ Office of the High Commissioner for Human Rights, "Training and Education," accessed Jan. 17, 2014, <http://www.ohchr.org/EN/PublicationsResources/Pages/TrainingEducation.aspx>; Office of the High Commissioner for Human Rights, "Human Rights Basics," accessed Jan. 17, 2014, <http://www.ohchr.org/EN/PublicationsResources/Pages/HumanRightsBasics.aspx>; Office of the High Commissioner for Human Rights, "Fact Sheets," accessed Jan. 17, 2014, <http://www.ohchr.org/EN/PublicationsResources/Pages/FactSheets.aspx>.

¹³⁵ The Advocates for Human Rights, "General Human Rights," accessed Jan. 17, 2014, http://www.discoverhumanrights.org/general_human_rights_2.html.

¹³⁶ Urban Justice Center, "Human Rights Project," accessed Jan. 17, 2014, <http://www.hrpujc.org>.

laws on domestic violence, assault, terroristic threats, strangulation, and any other relevant provisions; civil laws on orders for protection, harassment restraining orders, remedies, and child custody; protocols and guidelines on child protection, victims of crime, social services, and legal aid; and related forms and protocols on documenting domestic violence, filing applications for orders for protection, and issuing orders for protection for police, judges, and court personnel. On the other hand, a project monitoring peer-to-peer bullying in school might only focus on school policies, cyberlaw on harassment and stalking, and the juvenile justice system.

The training should address other pertinent topics, such as history, body language, non-verbal cues, such as common or disrespectful hand signals, cultural considerations for building rapport, and common vernacular phrases. These considerations are particularly important when working with specific communities. Informing monitors of cultural nuances such as these will help promote sensitivity during the monitoring process. Team members may find it helpful to have maps or other visual aids at the training if relevant. Also, including a glossary, list of key words, players, and acronyms may facilitate team members' understanding of the context.

It may be helpful to bring in advocates or experts to train on specific issues. For example, if the investigating organization is working with an immigrant population, advocates should consider bringing in an appropriate person from that community who can present cross-cultural training for fact-finders. As another example, an organization investigating sexual assault may consider using an advocate from a crisis center to discuss the dynamics of sexual assault and victim considerations.

v. Ethical Considerations

Training should emphasize the principles of monitoring and particularly emphasize the ethical considerations for conducting fact-finding. Above all, fact-finders should do no harm and always keep in mind the safety of the people providing the information. Also, fact-finders should respect the mandate; understand the country and respect the authorities; protect confidentiality of information; always exercise good judgment; behave professionally; and remain impartial, objective, accurate, and patient.¹³⁷

To maintain credibility, an interviewer should avoid making promises to participants that cannot be kept. For example, if an interviewee asks the advocate to meet with legislators about the report, the advocate may not be able to commit to that request for a number of reasons. There may be potential conflicts of interest, it may be premature to commit to a particular advocacy strategy, and that advocate may even have exited the project at that point in time.

Also, advocates may need to consider the issue of compensation for interviewees and how it may impact the credibility of the project. On the one hand, interviewees are using their time, energy, and possibly their own transportation to participate in fact-finding; offering compensation recognizes the value of their time and may bring a larger participant pool.¹³⁸ On the other hand, compensating interviewees could be seen as breaching the principles of voluntary participation or compromise the objectivity of the monitoring.¹³⁹ There may be an inclination for the participant to give information he or she perceives is agreeable to the interviewer.¹⁴⁰ Should organizations wish to recognize participants' time, one option is to compensate participants with non-monetary tokens of appreciation, such as coffee mugs, tee-shirts, or a meal.¹⁴¹ Reimbursement of participants' travel expenses is

¹³⁷ See the description of monitoring principles in Part A of this chapter.

¹³⁸ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 178.

¹³⁹ *Ibid.*

¹⁴⁰ Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring*, *supra* note 28, at 110.

¹⁴¹ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 178. (Organizations should be cautious about any messaging on these tokens that could jeopardize the confidentiality of respondents' participation in the project).

another form of compensation.¹⁴² Finally, organizations can make symbolic gestures, such as dedicating the final report to victims or participants.

Monitoring human rights violations in the United States can have legal implications for respondents and team members. If there are potential criminal and immigration ramifications for respondents and others involved in the project, there may be a need to train team members to be alert for such risks. Advocates should establish safeguards or protocols regarding these issues before the training and be prepared to inform fact-finders of the procedures to follow. For example, advocates may have built in a legal consultation system for respondents to use before they participate in an interview. Training should describe this process to team members, clearly delineate roles, and provide them with the lawyers' contact information.

Providing examples of scenarios may help team members understand how to apply ethical principles to different situations:

Situation	Non-ethical response	Better ethical response
Interviewer is concerned about the psychological state of the interviewee after an interview	Interviewer calls a psychosocial counselor without obtaining the client's permission and asks the counselor to follow up with the client.	Interviewer provides closure and allows enough time for the interviewee to compose himself/herself and transition back to the present. Interviewer acknowledges that it may be difficult to discuss past abuse and return to reality and checks whether interviewee has somewhere to go or someone to be with that evening. Interviewer validates and normalizes the manner in which the survivor conducted himself/herself during the interview. ¹⁴³ Interviewer provides an approved referral to the interviewee. Interviewer debriefs with the team leader and discusses possible follow-up with interviewee.
Interviewer is experiencing vicarious traumatization and having difficulty managing his or her own stress.	Interviewer talks with partner or spouse about the stories as a way to manage stress.	Interviewer debriefs with team members after each interview. Interviewer remembers the larger mission of the project. Interviewer addresses his or her own emotional and mental health needs and nurtures sources of hope and inspiration. Interviewer contacts the organization team member with concerns and questions. ¹⁴⁴
Interviewee asks interviewer for legal or medical advice in the course of the fact-finding.	Interviewer gives legal or medical advice to the interviewee outside the scope of the project mandate.	Interviewer remembers his or her role as a fact-finder and maintains boundaries. Interviewer provides appropriate referrals to interviewee.

¹⁴² Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring*, *supra* note 28, at 110.

¹⁴³ The Advocates for Human Rights, *Liberia TRC Statement Taker Training Manual*, Section 5A (citation omitted), http://www.theadvocatesforhumanrights.org/Statement_Taker_Training_Manual.html.

¹⁴⁴ *Ibid.* Section 5D, as adapted from *Interviewing Survivors of War Trauma and Torture*, Patricia Shannon, Ph.D. I.P, Center for Victims of Torture, presented for Minnesota Advocates for Human Rights on Dec. 15, 2006; *Secondary Traumatization*, Andrea Northwood, Ph.D., Center for Victims of Torture.

Situation	Non-ethical response	Better ethical response
Interviewee does not understand the question posed.	Interviewer mentions another interviewee's response (with or without the name) as a way to explain the question.	Interviewer reframes the question a different way; if interviewee still does not understand the question, interviewer moves on.

Trainings should also address ethical considerations that may arise after the project is finished. For example, a team member may want to write a blog entry or an academic piece about the project or about his or her experience. When the team has communicated to respondents the purpose of the interview and assured them of the confidentiality, such activities could compromise those assurances and the organization's credibility. Organizations should develop their own policies for these and similar matters. At all times, however, organizations should be guided by the ultimate priority of protecting confidentiality of the information. To safeguard against any breach of ethics, advocates should communicate to team members beforehand that information resulting from the project cannot be used for independent purposes without authorization from the organization.¹⁴⁵

vi. Re-traumatization, Vicarious Traumatization, and Stress Management

a. Re-traumatization

Training should prepare the monitors for the potential of re-traumatization of interviewees. Particularly where a torture victim recounts the events of his or her abuse, the experience can bring back traumatic memories. Re-traumatization cannot always be prevented or avoided, but it can be minimized or managed. Some tips for fact-finders in handling emotions include the following:

- Pace the interview to avoid overwhelming the interviewee;
- Recognize and acknowledge the difficulty in reliving the abuse;
- Demonstrate empathy;
- Validate and normalize the interviewee's conduct during the interview; encourage the interviewee's emotional expression in a supportive environment;
- Redirect;
- Promote self-awareness, monitoring and management;
- Actively listen to the interviewee;
- Avoid assumptions or judgments about the interviewee's behavior; avoid labeling or categorizing the interviewee's behavior; avoid shaming the interviewee;
- Use self-control over interviewers' own shock or anger over the victimization; recognize and own their personal discomfort with any of the interviewee's issues, so it is clear to the interviewee that it is the issue—not the interviewee—causing the discomfort;
- Develop knowledge about the dynamics of the human rights violation, its physical, social, and emotional consequences, and relevant history; and
- Do not hug or otherwise touch the interviewee.¹⁴⁶

¹⁴⁵ Women, Law & Development, *Women's Human Rights Step by Step*, *supra* note 39, at 145.

¹⁴⁶ *Liberia TRC Statement Taker Training Manual*, *supra* note 143, Section 5A, 5C, as adapted from Minnesota Coalition against Sexual Assault training Manual, "What People Who Are Victims/Survivors Need."

b. Vicarious or Secondary Trauma

The training program should also address the possibility of vicarious traumatization of the fact-finders. Vicarious traumatization is trauma-related stress from working with survivors of abuse. Trainings should alert team members to be aware of the symptoms, including fatigue, sadness, withdrawal, apathy, indifference, emotional numbness, forgetfulness, confusion, and cynicism. Other symptoms include: loss of compassion or trust in humanity, demoralization, and loss of emotional control, creativity, problem-solving skills, and sense of humor. The physical symptoms of vicarious trauma include difficulty sleeping or relaxing, headaches, stomach pain, diarrhea, joint or muscle pain, and illness.¹⁴⁷

Trainings should emphasize the following ways to manage vicarious trauma:

- Debrief with team members after each interview;
- Remember the larger mission of the project;
- Address interviewer's own emotional and mental health needs;
- Nurture sources of hope and inspiration; and
- Contact an organization team member with concerns and questions.¹⁴⁸

Also, the training can include reference to background reading material to help fact-finders understand and manage potential vicarious trauma.¹⁴⁹ If advocates anticipate a high degree of probability that the fact-finders will experience secondary traumatization, they should consider enlisting professional psychosocial counselors to assist with training the monitoring team.

vii. Practical Training

The monitoring protocol will dictate the specific topics of the training, but in general, advocates should address these subjects:

- Overall guidelines to conducting interviews;
- Fact-finding protocol, which may be provided to monitors as a checklist, including:
 - Setting up interviews
 - Establishing interview locations
 - Completing informed consent procedures
 - Carrying out the interview (including introduction and what information to collect in the interview)
 - Recording the interview
 - Using standardized forms for the interview
- Using interpreters, if applicable;
- Cross-cultural issues;
- Handling difficult interviewees; and
- Follow-up and referrals.

Mock interviews can illustrate and reinforce the monitoring protocol. A mock interview not only illustrates the interviewing protocol, but it also can demonstrate unexpected challenges and how to respond to them. Advocates should engage a team member with past fact-finding experience to play the roles of the interviewee and interviewer. One method is for the trainer to develop a set of interview questions and allow the "interviewee" to ad-

¹⁴⁷ Liberia TRC Statement Taker Training Manual, *supra* note 143, Section 5D, as adapted from, Patricia Shannon, Ph.D. I.P., "Interviewing Survivors of War Trauma and Torture," Center for Victims of Torture (presentation, Minnesota Advocates for Human Rights, Minneapolis, MN, Dec. 15, 2006); Andrea Northwood, Ph.D., "Secondary Traumatization," Center for Victims of Torture, <http://www.cvt.org/file.php?ID=5718>.

¹⁴⁸ *Ibid.*

¹⁴⁹ *Ibid.*

lib answers or read prepared responses. The mock interview should also conclude with evaluation and questions from team members.¹⁵⁰

Step 7. Storing the Information

A final, but important, step in the monitoring stage is documentation retention and storage. There are no one-size-fits-all information management solutions for human rights organizations. Indeed, the data storage needs and modes of each discrete project may require advocates to design unique storage policies. Advocates should develop and follow a protocol to protect data in storage and in publication to ensure that respondents can neither be identified nor associated with the information they gave. The level of security measures will depend on the scope of the project and the issues being investigated. For example, information gathered in a small community may require greater anonymity and more detailed security procedures than a broader survey. See Chapter 11, starting on page 314, for additional information on digital security.

In developing a data management scheme, the advocate must weigh several other considerations, asking questions such as the following:

- What resources are available to the organization for secure electronic and/or physical storage?
- What is the size and scope of the project?
- What level of information security is necessary to adequately protect confidentiality and uphold the principle of do no harm?
- Is long-term archival preservation of the first-hand accounts collected part of the project mandate?

Appendix A provides a more detailed discussion of storage options and considerations.

¹⁵⁰ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 33, at 163.

Chapter 4. Additional Monitoring Tools



Effective human rights monitoring uses multiple methods to gather and verify information about human rights violations and abuses. While interviews often form the core of the fact-finding, additional monitoring tools help corroborate, provide context for, or fill in gaps in information obtained through interviews. In some situations, they may even provide information that may not otherwise be obtainable through interviewing.

Advocates can draw upon a variety of tools to complement the information obtained through interviewing, including: (1) gathering information through focus groups and community meetings; (2) documentation and case file review; (3) visual inspection of specific locations; (4) observation of events, including processes such as trials or elections; (5) media monitoring; or (6) legislative monitoring.

A. Gathering Information through Focus Groups, Town Hall Forums, and Community Meetings

Focus groups, town hall forums, community meetings, and other group discussions create a dynamic interaction among participants that may bring forth information not elicited in individual interviews. Observing as people share information and compare different points of view can provide insight into community norms and values. Participants in a group meeting may also raise new issues for researchers.

While group fact-finding methods have value, advocates must consider whether such methods will be appropriate, productive, and safe for participants. Advocates should consider whether a group setting is likely to elicit the answers sought or whether it will be a barrier to honest participation. Will fear of either real or perceived infiltration

or retaliation influence the answers given or willingness to participate? The identities of the participants, the power relationship between them, and the setting will influence the outcome. For example, a group meeting of inmates about prison rape conducted within the prison and under the observation of guards will likely produce different results than private interviews with former inmates no longer in the physical control of their guards.

The *focus group* is a specific methodology best suited to assess attitudes and influences that impact people's behavior. Focus groups may be useful in the formative stages of project planning, to identify areas for further investigation, or to document attitudes and opinions that impact either the findings or the recommendations. Focus groups involve small numbers of people—approximately 8-10 participants¹⁵¹—and participants generally share similar characteristics, demographics, or experiences.¹⁵² Advocates should work with at least two groups with the same characteristics and questions to develop the best data.¹⁵³ Advocates should prepare a series of open-ended questions ahead of time to both guide and promote the discussions.¹⁵⁴ The questions and responses should be memorialized, either by using a note-taker or recording and transcribing the conversation. Again, the fact-finder may consider the impact this will have on participants' willingness to speak freely or at all.

Treatment and Rehabilitation Center for Victims of Torture (TRC): Using Focus Groups



The Treatment and Rehabilitation Center for Victims of Torture (TRC) provides rehabilitation services for victims of torture in Ramallah, Occupied Palestinian Territories (OPT). When TRC decided to develop and publish a practical, user-friendly guide on the rights of detainees,

staff knew that the guide should be based on real life experiences. As a preliminary step, TRC conducted focus group meetings with its own clients, as well as other torture survivors and TRC staff members. The information obtained through the focus groups about what rights were being abused helped TRC create the framework and structure of the guide. The community focus groups were also important for identifying the rights about which the community lacked awareness.¹⁵⁵

Fact-finding may also take place in less structured group meetings, community forums, and group interviews. Group discussions such as these may help identify patterns and themes or additional avenues of investigation. In addition to the statements made by participants, fact-finders may document their observations about the dynamics of the groups themselves. As with focus groups, the conversation should be memorialized through notes or transcripts. Observations about group dynamics, domination of the conversation by powerful or intimidating participants, presence of infiltrators or perpetrators of human rights violations or abuses, and other such factors all must be noted and factored into the analysis.

¹⁵¹ Robert Shumer, *Youth-Led Evaluation: A Guidebook* (Clemson, SC: National Dropout Prevention Center, 2007), 40.

¹⁵² For example, participants who are similar in terms of social class, age, level of knowledge, gender, and cultural/ethnic background. See, e.g., Brian Katulis, *Women's Rights in Focus: Egypt* (New York: Freedom House, 2004), 34.

¹⁵³ Mary Ellsberg and Lori Heise, *Researching Violence Against Women: A Practical Guide For Researchers and Activists*, (Geneva: World Health Organization and Program for Appropriate Technology in Health (PATH), 2005), 133. Also available online at http://www.path.org/files/GBV_rvaw_complete.pdf.

¹⁵⁴ Richard A. Krueger, "Planning Guide for Focus Groups," accessed Jan. 17, 2014, http://www.tc.umn.edu/~rkrueger/focus_planning.html.

¹⁵⁵ New Tactics in Human Rights, "Engaging victims to develop a community education user friendly guide 'know your rights' titled 'Detainees Guide,'" accessed Jan. 17, 2014, <http://www.newtactics.org/tactic/engaging-victims-develop-community-education-user-friendly-guide-%E2%80%9Cknow-your-rights%E2%80%9D-titled>; Treatment & Rehabilitation Center for Victims of Torture, accessed Jan. 17, 2014, www.trc-pal.org.

Los Angeles Community Action Network: Gathering Data

The mission of Los Angeles Community Action Network (LA CAN) is to help people dealing with poverty create and discover opportunities, while serving as a vehicle to ensure they have voice, power, and opinion in the decisions that are directly affecting them. LA CAN's constituency is homeless and extremely low-income people living in downtown Los Angeles. LA CAN uses multiple approaches such as impact litigation, community education and empowerment, and leadership development to address issues related to homelessness, health, housing, and discrimination.



LA CAN supporters rallied behind Executive Director Pete White's calls for them to "Speak up. Speak out. Speak now."

LA CAN also conducts community-based monitoring and documentation. One example is LA CAN's *Taken for Granted: Ignoring Downtown Food-Insecurity* (2005). For this Community Assessment Report, LA CAN's main goal was to gather data from a variety of sources, using a variety of methods, to create a comprehensive picture of the conditions and needs of Central City East of Los Angeles. To collect information from various sources to answer five research inquiries about food insecurity and barriers to accessing nutritious food, LA CAN used eight monitoring tools:

1. *Mapping*: GIS and mapping technologies to generate maps showing retail food venues, residences, and population density.
2. *Sidewalk surveys*: Trained surveyors to visit food venues and fill out forms documenting prices, food selection, business hours, sanitation, acceptance of Electronic Benefits Transfer cards, and other factors.
3. *Interactive exercises*: Four exercises with 60 residents that use visual cues to obtain residents' perceptions of foods' nutrition, determine their food preferences, gauge residents' financial restrictions to buying food, and learn about local food availability.
4. *Food journals*: Eighteen residents document the food they eat on a daily basis for one week.
5. *Surveys*: Trained volunteers administer pilot-tested surveys at locations throughout the community for two weeks. 196 people voluntarily participate and receive tokens of appreciation.
6. *Focus groups*: Focus groups with senior citizens, families with children, homeless people and people living with disabilities. The same eight questions are asked for each focus group.
7. *Interviews with charitable food providers*: Interviews with food providers about the logistics of providing free meals, the nutritional content, accommodations for special dietary needs, and the financial aspects of running the service.
8. *Community forums*: Sharing of the initial findings with community residents to gather their feedback on how to improve food insecurity and garner healthier and economical food to residents in the community.

Based on the findings from these monitoring tools, LA CAN evaluated the information through statistical

analysis, coding, identification of themes, and visual presentations of food availability.¹⁵⁶ LA CAN presented the final results along with recommendations in its report, which is available on its website at <http://cangress.org/wp-content/uploads/2013/04/foodreport.pdf>.

B. Collection and Review of Documentary Evidence

Document and case file review involves the collection and review of documentary evidence. Documentary sources include laws, regulations, or other government documents; letters; transcripts; court, police, and prison records; videos and photographs; medical records; and forensic evidence.¹⁵⁷ Secondary documentary sources include news reports, books, articles, and other written resource materials.¹⁵⁸ Advocates should always be mindful of the credibility of these sources, and where appropriate, ensure the evidence is signed or similarly certified.¹⁵⁹

Besides being a direct source of information, documents and case files can also provide insight into the dynamics of the human rights violation. For example, examining trial transcripts and decisions can expose a judge's reasoning, enabling the advocate to gauge whether the judiciary has an understanding of the human rights issue or whether its reasoning reflects harmful misperceptions. Case files can also provide the advocate fact patterns as examples of the human rights violation, as well as efforts undertaken by victims to seek protection or a remedy.

Advocates can also apply simple quantitative analysis to documentary evidence to estimate prevalence of a particular violation or evaluate how laws or policies are working in practice. For example, if police records indicate a high number of assaults, but prosecution records show a low number of cases opened or convictions obtained, this disparity may indicate a breakdown in the justice system.

Practitioner's tip: During the monitoring process, advocates should take special care to record all relevant details about the sources of information gathered, including URLs if available. In the documentation stage, it is important to be able to cite the sources of information that substantiate any claims.

Secondary sources often provide important historical context for understanding the information gathered through other fact-finding methods. In addition, looking at the media's treatment of issues may provide insight into the social or political climate relating to the abuses or violations.

C. Observation

Observation of sites, processes, and events provide fact-finders with invaluable information. While observation often requires an on-site presence, television and webcasts make it increasingly possible to conduct remote observation of some events, such as trials.

An on-site investigation mission requires advance planning. Advocates should prepare by conducting background research and preliminary interviews prior to the visit. To maximize efficiency, interviews should be scheduled prior

¹⁵⁶ Los Angeles Community Action Network, accessed Jan. 17, 2014, www.cangress.org; Interview with LA CAN, by The Advocates for Human Rights, Mar. 5, 2010; Los Angeles Community Action Network, *Taken for Granted: Ignoring Downtown Food-Insecurity* (Los Angeles: Los Angeles Community Action Network, Oct. 2005). Also available online at <http://cangress.org/wp-content/uploads/2013/04/foodreport.pdf>.

¹⁵⁷ Jennifer Prestholdt, *Familiar Tools, Emerging Issues: Adapting Traditional Human Rights Monitoring to Emerging Issues*, ed. by Rachel Tschida (Minneapolis: Center for Victims of Torture, 2004), 9. Also available online at <https://www.newtactics.org/sites/default/files/resources/Familiar-Tools-Emerging-Issues-EN.pdf>.

¹⁵⁸ *Ibid.*

¹⁵⁹ D. Ravindran, Manuel Guzman, and Babes Ignacio, eds., *Handbook on Fact-Finding and Documentation of Human Rights Violations* (Philippines: Asian Forum for Human Rights and Development (FORUM-ASIA), 1994), 14.

to the visit when possible; additional follow-up and scheduling can continue on-site. Advocates should evaluate any special expertise needed to assess the particular conditions and carefully select team members with special skills based on those needs. For some kinds of visual inspection (such as detention facilities) or process observation (such as trials), advocates may need to request permission from the authorities in advance in order to gain access.¹⁶⁰ Logistical planning will also be needed for accommodation, transportation, and interpretation or translation needs.

Advocates should make careful, objective notes about every aspect of the event that they are observing, including number of participants, timeline of activities, names of public figures, content of discussions, and other relevant observations. Diagrams, sketches, or maps of details may be helpful, as well as descriptions of gestures, physical appearance, or movements. Informal conversation and interaction with participants may also yield insights and should be recorded in notes.

Process Observation: Observation of processes, such as legal proceedings or elections, can be used to gather information about how laws and policies are implemented in practice. Observation not only reveals gaps or failures in systems that lead to human rights violations, but may also show positive practices. Observation of all components of the system enables advocates to better understand how the system works or fails to work and how to make practical recommendations.

WATCH: Court Monitoring Makes a Difference

Founded in 1992 in Minneapolis, Minnesota, WATCH engages in court monitoring to make the justice system more effective and responsive in handling cases of violence against women and children, and to create a more informed and involved public. Its mission is premised on the principle that public scrutiny will help ensure a just and fair court system.



WATCH’s court observation provides an example of process observation to protect the rights of women and children. WATCH is able to carry out wide scale monitoring by using trained volunteers to observe and report on more than 5,000 hearings per year in the Hennepin County court system. These volunteers carry red clipboards to maintain a visible presence in the courtroom and record important data and observations on specially designed forms.

Using the information observed through daily court monitoring, WATCH is in a unique position to document problems and make recommendations on how the courts can improve safety for women and children. Based on its court monitoring work, WATCH has published a report on the judicial response to victim impact statements during sentencing, established a fatality review task force to review domestic homicides and address gaps in the county system, and advocated for the creation of a domestic violence county court. One judge had this to say about WATCH, “They hold up a mirror [to us] . . . and sometimes we don’t like what we see.”¹⁶¹

¹⁶⁰ Office of the High Commissioner for Human Rights, “Part Three: The Monitoring Function,” in *Training Manual on Human Rights Monitoring* (New York: United Nations, 2001), 146. Also available online at <http://www.ohchr.org/Documents/Publications/training7part59en.pdf>.
¹⁶¹ WATCH, accessed Jan. 17, 2014, www.watchmn.org; Interview with WATCH, by The Advocates for Human Rights, May 17, 2010.

Process observation undertaken in conjunction with fact-finding interviews and document review is particularly effective in the areas of administration of justice and elections. Observation can be an important tool in assessing the independence of the judiciary, the effectiveness of domestic remedies for violations, and in determining the extent of impunity.¹⁶² Trial observation can also help to bring attention to cases of human rights violations and provide support to the victim.¹⁶³

Advocates should consider how their presence may influence the process they are observing. When process observation is used as a method of fact-finding, the purpose of observation is not to determine the guilt or innocence of the person standing trial, but to assess the fairness of the proceeding.¹⁶⁴ The presence of observers may be used, however, not only to document problems but to encourage adherence to existing rules or standards.¹⁶⁵

Prior to undertaking observation, advocates must have sufficient information about the process they intend to monitor and the standards to which those processes should adhere so that they can understand what is happening, what should be happening, and what is missing from the proceedings they are observing. Advocates should understand the rules governing access to the location, recording of proceedings, interaction with participants, and conduct during proceedings. Election and trial monitors risk ejection from the site if their conduct fails to conform to existing rules, and they must consider such rules when developing their tactics.

The Immigration Court Observation Project: Process Observation

The Immigration Court Observation Project (ICOP) of the National Lawyers Guild is a law-student led initiative to attend immigration proceedings, document observations, and identify lapses in due process in order to bring about greater transparency and accountability in the immigration court system. Since 2006, hundreds of law students in the New York City area have observed over a thousand hearings. ICOP is premised on federal regulations that give the general public access to observe most immigration proceedings, so ICOP has developed policies for its observers to follow. If ICOP's attendance is questioned, ICOP observers will respectfully state the right to observe. It is also ICOP's policy to always defer to a respondent who is concerned about an observer's presence. Therefore, ICOP does not release a respondent's name or additional identifying information gathered at a hearing.¹⁶⁶

Observers should consider how they wish to appear while observing, including where they sit or stand, and whether they wish to be identifiable as observers. Court monitoring notes should be treated as any interview findings and, where appropriate, should safeguard the confidentiality of the parties involved.¹⁶⁷ Advocates who are undertaking a large court monitoring project should develop standardized forms to promote consistent adherence to observation protocols and improve data collection. If possible, observers may seek to obtain copies of the case files of the proceedings they observe.¹⁶⁸

¹⁶² Ravindran et al., *Handbook on Fact-Finding*, *supra* note 159, at 51.

¹⁶³ International Commission of Jurists, *Trial Observation Manual* (Geneva: International Commission of Jurists, 2002), 3. Also available online at http://www1.umn.edu/humanrts/research/trial_observation_manual.pdf.

¹⁶⁴ Ravindran et al., *Handbook on Fact-Finding*, *supra* note 159, at 51.

¹⁶⁵ For resources on monitoring other kinds of processes, please see Chapters 14 and 15 of the OHCHR Training Manual on Human Rights Monitoring on Election Observation and Monitoring Demonstrations and Public Meetings; National Lawyers Guild Legal Observer Training; and the Election Defense Alliance Comprehensive Guide to Monitoring Computerized Elections.

¹⁶⁶ Immigration Court Observation Project, accessed Jan. 17, 2014, <http://nycicop.wordpress.com/>.

¹⁶⁷ International Commission of Jurists, *Trial Observation Manual*, *supra* note 163, at 15.

¹⁶⁸ See the Section on Collection and Review of Documentary Evidence discussed in Chapter 3.

On-site Inspection: Advocates seeking to monitor human rights often visually inspect sites, conditions, photos, and other evidence. Going to the site of the human rights abuse allows the advocate to visually inspect the site, conduct face-to-face interviews, speak to more community members, take photographs, and obtain greater access to documents, news reports and evidentiary material. Inspection used along with interviews and other methods can corroborate and ascertain the credibility of information obtained.

Advocates must always consider the effect of their presence on-site.¹⁶⁹ Will their presence do harm by bringing unwanted attention, opening up victims to retaliation, or creating false expectations for victims? Alternatively, will sending a fact-finding mission help generate greater solidarity for victims and persuade the government to take steps to address the violations? Monitors must be careful to avoid creating false expectations or making promises to victims that the monitor will be unable to keep.

D. Audiovisual Tools

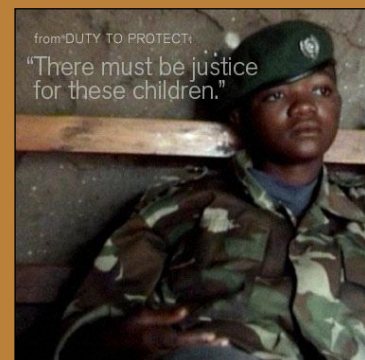
Technological improvements and decreased equipment costs have greatly increased the ability of advocates to use audio, photographic, and video tools to monitor human rights. MP3 recorders, video cameras, and digital cameras are inexpensive and easily transported, increasing opportunities to use them to create powerful images of human rights abuses. Online tools such as YouTube and Flickr, as well as social media sites such as Twitter and Facebook, make it easy to distribute these images.

Advocates should pay careful attention to the principles of human rights monitoring when using audiovisual tools, particularly the principles of do no harm and confidentiality. Before making any audiovisual recording, advocates should ensure that they advise the individual as to what they plan to do with the recording and obtain informed consent for its use.

Advocates can use audio and video to record stories and experiences directly from victims and witnesses. Because these recordings can be made immediately and universally available through websites, audio and video can be powerful tools for use in advocacy and education as well as in human rights fact-finding.

WITNESS & AJEDI-Ka: Documenting with Video

In the Democratic Republic of Congo (DRC), children make up the majority of combatants in a war that has claimed over five million lives. AJEDI-Ka, a DRC nonprofit organization that demobilizes and reintegrates child soldiers, joined forces with WITNESS to produce several videos documenting the situation of child soldiers in the region. *A Duty to Protect* videos feature the voices of child soldiers and document their experiences, including the sexual exploitation and violence against girl child soldiers.¹⁷⁰



Photography has long been a powerful means of documenting human rights abuses. Advocates can use photos to tell a story, either simply through the imagery itself or by creating photo galleries with accompanying captions. Photographs can also be used in a report to help illustrate findings. Where the content may be particularly troubling or difficult to read, use of photos can help make the document more accessible to readers. When

¹⁶⁹ Office of the High Commissioner for Human Rights, "Part Three: The Monitoring Function," *supra* note 160, at 136.

¹⁷⁰ Witness, "A Duty to Protect: Child Soldiers in the DRC," accessed Jan. 16, 2014, <http://www.witness.org/campaigns/all-campaigns/duty-protect-child-soldiers-drc>.

photographs will be used as documentary evidence, some human rights advocates recommend ensuring that photographs are signed or otherwise certified.¹⁷¹

USHRN and the Testify! Project: Using Video to Bring the Stories of Human Rights Abuses to the United Nations

In an effort to bring to the stories of ordinary citizens affected by human rights abuses to the United Nations, the U.S. Human Rights Network (USHRN) launched an innovative video contest called the Testify! Project. The United States' human rights record was reviewed for the first time by the new UN Human Rights Council in November 2010 as part of the Universal Periodic Review (UPR) process. Even though the UPR took place in Geneva, Switzerland, the Testify! Project made it possible for the USHRN to contribute a grassroots portrayal of the status of human rights in the United States.

Participants in the Testify! Project were asked to create a one to two minute video to answer in their own words the questions: "How are human rights violated in your community?" and "What should the U.S. Government do to protect these rights?" More than 60 individuals and groups submitted videos on human rights issues that ranged from access to adequate health care to the denial of rights of indigenous communities, to immigration issues faced by the gay and lesbian community. After a public vote narrowed down the finalists, a panel of judges with expertise in human rights and video activism selected two winners. Romeo Ramirez's video described how he and his fellow migrant laborers work to put food on the tables of families across the U.S., yet could hardly feed their own families and face sub-poverty wages and frequent abuse from employers. The second round winning video, submitted by the La Jolla Band of Indians, highlights a community walk bringing attention to the disproportionately high rates of rapes and assaults on native women.

In September 2010, the USHRN held an event in Geneva to bring these stories to the Human Rights Council delegates who would be questioning the United States during the UPR. A compilation of the top ten videos was also screened, followed by a panel discussion, at an event in Geneva during the week of the United States' Universal Periodic Review in November 2010. "The Testify! Project is a chance for the voice of people in the community who have suffered the indignities and violations of their human rights to be heard," said Ajamu Baraka, Executive Director of USHRN.¹⁷²

Advocates can plan to take their own photographs to document images as part of the fact-finding process. When taking photographs, monitors should at all times remember to observe the monitoring principle to do no harm. Monitors should never take photos of identifiable individuals without discussing the intended use of the photos and obtaining informed consent. In addition, advocates should take photographic images of sites of human rights abuses, signage, landscapes, maps, venues, large groups of people, etc. to add depth to the monitoring process.

Some websites also offer free use of photographs, but advocates should exercise caution in selecting appropriate photos for use in reports and advocacy as using a photo unconnected to the material could undermine credibility. Organizations may also consider working with professional photographers who are willing to donate their photographs for use in publications. Photographs are subject to copyright, which generally belong to the original photographer. Advocates should seek written confirmation of the photographer's permission to use the photograph and or assignment of copyrights.

¹⁷¹ See Ravindran et al., *Handbook on Fact-Finding*, *supra* note 159, at 14, for a discussion of the level of proof in fact-finding.

¹⁷² Witness, "Testify! Project - Universal Period Review of the U.S.," accessed Jan. 17, 2014, <http://www.witness.org/campaigns/all-campaigns/us-human-rights-network>.

E. New and Emerging Technologies

New and emerging technologies have led to an explosion in low-cost, creative tools for documenting human rights abuses. As technologies have continued to evolve, the increase in technological access throughout the world has opened great opportunities for using technological tools in human rights monitoring, reporting, and protection. These new, easily accessible tools make it easier to shine the light on human rights abuses and share the information in near real-time. Advocates should remember however, that human rights monitoring involves more than just exposing the problem. In a broader context, new and emerging technologies should be used in the same way as other fact-finding tools—to identify the facts and contextualize what is happening on the ground. Advocates need to use this information to analyze where the system breaks down and recommend the appropriate responses to address the problems. (See Chapter 6.)

Mobile phone technology: Mobile technologies are transforming the way organizations and individuals can access and share information. “Globally, more people now have access to a mobile device than to justice or legal services.”¹⁷³ Today, practically anyone with a mobile phone has the capacity to report or record human rights violations by with photo and video documentation. Grassroots organizations around the world are using crowd-sourced data gathered via mobile technology to identify problems, analyze trends and craft appropriate interventions and recommendations for reform. Crowd-sourcing applications can also link into other kinds of social networking platforms, allowing for a broader dissemination of information.

Location-aware applications—generally for more sophisticated smart phones—are another tool that can be used for crisis reporting and election monitoring. Using built-in GPS sensors to pinpoint physical location, “geo-tagging” platforms such as FourSquare, Brightkite, Loopt, and Google Latitude allow mobile phone users to transmit their precise location for tracking and coordinating movements and meetings. During the 2009 violence in Gaza, for example, citizens reported the exact location of violent incidents using SMS and phone-based GPS.

I Paid a Bribe: Using Mobile Technology to Document Corruption

The I Paid a Bribe initiative was started by the Janaagraha Centre for Citizenship and Democracy, based in Bangalore, India to help confront issues of transparency and accountability in India. The technology allows citizens to report via SMS and smart phone the nature, pattern, location, and frequency of acts of corruption. The information was used through a campaign called Bribe Bandh to pressure the government to ratify the UN Convention against Corruption (which the government ratified in May 2011). The I Paid a Bribe initiative also worked with other civil society partners including India Against Corruption to pressure the government to pass a long sought after anti-corruption law.¹⁷⁴



Mobile platforms also enhance the ability for organizations to monitor critical events and share information through a simple SMS subscription. For elections, mobile phones and innovative mobile platforms have been critical tools in monitoring fraud and engaging citizens. Further, developments during the Arab spring and

¹⁷³ UN Development Programme, “Mobile Technologies and Empowerment: Enhancing human development through participation and innovation,” accessed Jan. 17, 2014, <http://www.undpegov.org/mgov-primer.html>.

¹⁷⁴ I Paid a Bribe, accessed Jan. 17, 2014, <http://ipaidabribe.com>.

mobilizations across Europe and the United States around the global fiscal crises illustrate the potential of mobile communication in supporting people's movements. Across North Africa and the Middle East, civil society organizations were supported with variations on the Ushahidi platform, such as in Egypt, where Ushahidi maps were produced by the Development and Institutionalization Support Center (DISC) in Cairo to monitor events during and after the January 2011 uprising. In Libya, the Ushahidi platform was adapted immediately at the start of protests there in 2011, at the request of the UN Office for the Coordination of Humanitarian Affairs (OCHA), to allow citizens and observers to submit information about conditions on the ground, as protests and violence expanded.

Mapping and Geospatial Technologies: Mapping is a powerful tool that can be used for a wide range of human rights issues, both at the local and global level. Maps also offer new possibilities for advocacy, promoting transparency around human rights issues, tracking impact of human rights efforts, and engaging the community in local issues.

As a monitoring tool, maps can visually help unravel the dynamics of human rights violations and clearly reveal patterns in inequities. For example, mapping has been used to expose humanitarian crises resulting from conflicts in places like Darfur and Syria. The U.S. Holocaust Memorial Museum combined data from the U.S. State Department and United Nations, witness testimonies, and satellite imagery on a Google Earth map. Past Google Earth images of the same locations allowed them to compare before and after images of specific villages. This provided documentation that more than 2,000 villages were destroyed between 2004 and 2005, out of a total of 3,300 villages destroyed between 2004 and 2009. Using similar data sources and technological tools, USHMM created another 3D map that "identifies the locations and number of the 2.5 million displaced persons struggling to survive in camps, villages, and other locations throughout Sudan, and the more than 200,000 refugees from Darfur in the camps in Chad."¹⁷⁵

Electronic mapping is a newly developed tool using electronic networks, satellite imagery and tracking. Mapping used in tandem with the widespread availability of the internet, social networks, mobile telephones, and related communications technologies have provided advocates with new ways to track human rights violations and use the information to advocate for better protection.

Incident mapping can be a simple but powerful electronic mapping tool using SMS to report incidents and map the data geographically. It can be used to track reports from natural disasters, violent crime, or citizen reporting in elections. Crowdsourcing, a popular crisis mapping tool, is a type of incident mapping. Used to map a wide range of issues, crowdsourcing makes it easier for a large group of people from all over a region, city, country, etc., to document where problems are occurring and when. This information is used to help respond to problems, provide aid to regions that need it and keep the public up-to-date on issues as they progress.

¹⁷⁵U.S. Holocaust Memorial Museum, "Crisis in Darfur," <http://www.ushmm.org/learn/mapping-initiatives/crisis-in-darfur>; Tactical Technology Collective, "Maps For Advocacy: An Introduction to Geographical Mapping Techniques," <https://tacticaltech.org/maps-advocacy>.

Ushahidi: GIS Mapping

Ushahidi, which means “testimony” in Swahili, is a free information sharing platform for information collection, visualization and interactive mapping. The core platform is built on the premise that gathering crisis information from the general public provides new insights into events happening in near real-time. Ushahidi was first developed in 2007 as a website to map incidents of post-election violence in Kenya. It had 45,000 users, who submitted reports via the web and mobile phone. The Ushahidi open source PHP/Javascript platform has been used as a tool in crisis mapping throughout the world, from in mapping outbreaks of xenophobic violence in South Africa to aggregating, translating and disseminating incident reports and requests for assistance after the 2010 earthquake in Haiti. Crowdsourced information can be submitted using multiple channels, including SMS, email, Twitter, and web form.¹⁷⁶



Another type of electronic mapping is through satellite imagery. Human rights organizations have begun to use satellite technology to expose rights abuses in closed regions. Satellite imagery is extremely effective for showing the before and after effects of major conflict, such as the destruction of villages, or mass movements of people, such as the displacement of refugees. Using previously taken GPS coordinates from villages reported to have been attacked, researchers have been able to purchase a series of satellite images of these villages taken over a period of time. These time-stamped images give clear evidence of the before and after effects of an attack.

American Association for the Advancement of Science: Using Google Earth to Document Human Rights Abuses in Syria

In September 2012, the Geospatial Technologies and Human Rights Project of the American Association for the Advancement of Science (AAAS) began investigating reports of human rights abuses happening in the escalating conflict in Aleppo, Syria. AAAS used Google Earth to obtain two satellite images from August 2012. The AAAS analysis documented more than one hundred instances of damage to buildings and infrastructure, numerous shell craters, multiple improvised roadblocks, and the presence of heavy armored vehicles in civilian neighborhoods, and resulted in the AAAS report, “Satellite Imagery Analysis for Urban Conflict Documentation: Aleppo, Syria.”¹⁷⁷

¹⁷⁶ Ushahidi, accessed Jan. 17, 2014, <http://www.ushahidi.com/about-us>; Urban Times, “Crowdsourcing Maps Using Ushahidi,” accessed Jan. 17, 2014, <http://www.theurban.com/2012/02/crowdsourcing-maps-ushahidi/>.

¹⁷⁷ American Association for the Advancement of Science, “Scientific Responsibility, Human Rights & Law Program,” accessed Jan. 17, 2014, http://www.aaas.org/aleppo_retrospective.

Chapter 5. Remote Monitoring



A. Collecting Information from Diaspora Communities

Diaspora communities do not simply shut the door to their countries upon resettling in a third country. Families remain behind, and emotional, economic, and political ties are strong. Many living in exile hope one day to return home. Consequently, members of diaspora communities can often be a good source for credible and current information about human rights country conditions.

Many members of diaspora communities have first-hand knowledge of human rights abuses in their country of origin. Personal accounts of refugees and asylum seekers, as well as other immigrants, provide a window into the human rights conditions that forced them to leave their country. These accounts not only establish the basis for protection of individuals but also provide evidence to hold governments accountable for violations of international human rights obligations.

Human Rights Fact-Finding with the Oromo Diaspora

The Advocates for Human Rights used remote monitoring to research the 2009 report *Human Rights in Ethiopia: Through the Eyes of the Oromo Diaspora*. The Oromo are Ethiopia's largest ethnic group, but have experienced repression and human rights abuses by successive Ethiopian governments since the late 19th century. With this report, The Advocates sought to give voice to the experiences of the Oromo people in the diaspora, to highlight a history of systematic political repression in Ethiopia, and to support the improvement of human rights conditions in Ethiopia.

The project methodology focused on interviews with members of the Oromo diaspora, as well as service providers, scholars and others working with Oromos. The Advocates assembled a group of ten lawyers, many of whom had worked on behalf of Ethiopians' asylum claims in the past, and trained them on fact-finding, documentation, and interview techniques, including a review of human rights violations against the Oromo and the current country conditions in Ethiopia. The fact-finders conducted interviews with Oromo people in the diaspora, Oromo scholars and community leaders, the immigration bar, and providers of medical and community services to the Oromo.

The report includes nearly 50 pages of findings on violations of human rights, including torture, extra-judicial execution, arbitrary arrests and incommunicado detention, lack of due process, and inadequate prison conditions. The report also documents the state surveillance apparatus and violations of the rights to freedom of speech, assembly, association and expression, as well as violations of economic, social and cultural rights. Although it is not based on on-the-ground fieldwork in Ethiopia, this carefully researched and credible report has been cited as supporting evidence in immigration court and as a basis for recommendations by UN human rights mechanisms.¹⁷⁸



A volunteer attorney makes a presentation to an Oromo student group at the University of Minnesota about the findings of a report to the UN Committee on Economic, Social and Cultural Rights, based on The Advocates' remote monitoring report.

In a world closely connected through electronic communications, members of many diaspora communities maintain close contact with friends and relatives in their home countries. Regular contact via telephone, email, and social media provides an up-to-date picture of emerging human rights situations. Family members are often the first to know about and report on human rights abuses on the ground in their country of origin. Diaspora community members also obtain information from friends, people they went to school or worked with, as well as fellow members of political parties or opposition groups. In addition to information about human rights abuses, contacts in the country of origin may also be able to provide information about existing or proposed local and national law and policy.

Advocates should note that it is important to test the credibility of second-hand information obtained from contacts in the country of origin. As with any human rights monitoring process, advocates should corroborate information through fact-checking with other interviewees and secondary sources whenever possible. (See Chapter 3 Monitoring, Part A, Principle 13: Accuracy and precision; see also Chapter 6 Documentation, Step 5. Maximizing Validity and Reliability.) Even if the information cannot be corroborated with independent sources, it might still be useful. For example, if multiple people make the same observation but the information cannot be corroborated, it might be useful for advocacy purposes to report on the extent of the perception or fear of particular human rights abuses. Alternatively, while an advocate may not be able to definitively corroborate second-hand accounts at a given point in time, the information may be useful as an early warning sign of mass atrocities or in developing plans for more in-depth fact-finding. In making the decision to include uncorroborated information, advocates

¹⁷⁸ The Advocates for Human Rights, *Human Rights in Ethiopia: Through the Eyes of the Oromo Diaspora* (Minneapolis, MN: The Advocates for Human Rights, Dec. 2009). Also available online at http://www.advrights.org/uploads/oromo_report_2009_color.pdf.

should be sure to explain that and clearly state what the information is, where it came from.(attribution), and why it is included.

B. Media Monitoring

Many diaspora community members also report using a variety of tools to conduct media monitoring in order to obtain information about human rights abuses in their home country. Media monitoring involves the systematic collection, review, and analysis of radio and television broadcasts, print media publications, or online information sources. While objectives of monitoring can differ in scope, advocates can use media monitoring to track patterns and new developments; corroborate and enhance findings from interviews and other fact-finding methods; provide insight into how the media deal with a particular issue or group; identify messages and examine how those messages are framed; and develop an understanding of public perception and misperceptions. Media monitoring can provide human rights advocates with insight into the best way to address and improve coverage of human rights issues, as well as to develop subsequent advocacy around those issues.

MAINSTREAM MEDIA	COMMUNITY MEDIA	NEW MEDIA
<p>Mainstream or Mass media is often general in its content in order to cater to a diverse audience. Mass media views audiences as both consumers of information and of goods and services. Advertising is essential to the sustainability of the mass media. Mass media can be owned and operated by the government, public or private interests. Mainstream media includes newspapers, magazines and the broadcast mediums of television and radio.</p>	<p>Community Media is generally targeted at limited geographical areas and smaller audiences in, for example, neighborhoods, towns, rural areas, and close-knit communities which seek to keep themselves informed on issues of interest. There is usually more room for people within a local community to participate in the governance and editorial operations of this form of media. Many diaspora communities have established language and/or culturally-specific community media outlets.</p>	<p>New media, also known as NICTs (New Information and Communications Technologies), includes web sites, web portals, e-mail news alerts, listserves, and blogs. It is used by mainstream media through web-based editions of their products, but the information technology revolution also has opened space for civil society, diaspora communities, special interest groups, and individuals to create their own sites for disseminating information and viewpoints.</p>

Somali Rights: Compiling and Posting News Updates on Website

Somali Rights is an organization of Somalis living in the diaspora in the United Kingdom and United States. Somali Rights maintains a website with news updates, images, videos and opinion pieces about human rights abuses in Somalia. Somali Rights' stated goal in carrying out this kind of media monitoring is "to advocate for the victims and influence global public policy on prevention, intervention, and holding perpetrators of atrocities accountable."¹⁷⁹



¹⁷⁹ Somali Rights, accessed Jan. 17, 2014, <http://www.somalirights.com/>.

Media monitoring has undergone a radical transformation in recent years. News sources have multiplied dramatically with the advent of the Internet, and most media outlets now post their content online.

This content, in turn, is indexed by free search engines and made accessible to users around the world. These new search technologies make media monitoring not only more accessible, but more efficient and powerful. While information search tools do not process or analyze information, they do provide a means for quickly and easily obtaining information from media sources. The following descriptions are not an exhaustive list but a starting point to provide an overview of the tools available to conduct media monitoring.

i. Web Alerts

Google,¹⁸⁰ Yahoo!,¹⁸¹ and Bing¹⁸² all provide free news monitoring services. These web alert services send automatic e-mails that provide advocates with the latest news stories related to the interests specified in the user's subscription. Web alerts enable a media monitor to avoid duplicative search efforts on multiple sites by automatically transmitting specific information. If the search query is broad or will garner a large number of results, advocates may want to open a new email account specifically for these results to prevent overwhelming their regular accounts.¹⁸³

ii. Newsletters and Listserves

Newsletters are publications regularly published by organizations and institutions to disseminate information. Newsletters are often available on the internet and provide regular information about an issue.¹⁸⁴ Key organizations or other bodies working on the issue may also publish regular newsletters for subscription.

In an urgent or rapidly evolving human rights situation, some diaspora community organizations have chosen to use email listserves as an effective method of swiftly distributing information.

Using a Listserve to Distribute Updates on the Crisis in Syria

In 2012, a group of Syrian-born activists and artists in the United States created an email listserve to raise awareness among the diaspora and others in the U.S. about the human rights abuses against civilians taking place during the conflict in Syria. Members of the Syrian diaspora, as well as others, could join the listserve by providing their email addresses. The group compiled and regularly distributed through the listserve news reports, links to amateur videos posted on YouTube, and other information about what was happening on the ground in Syria. They combined the use of the email listserve with public events such as poetry readings and artistic performances to raise awareness and mobilize community members to press the U.S. government to take stronger action to end the violence against civilians in Syria.



Syrians rally outside the U.S. Embassy in Amman, Jordan to demand a U.S. military intervention to stop the violence in Syria. Arabic writing on the girl's face reads: "Syria is bleeding. Where are the Muslims?"

¹⁸⁰ Google, "Google Alerts," accessed Jan. 17, 2014, <http://www.google.com/alerts>.

¹⁸¹ Yahoo, "Yahoo! Alerts," accessed Jan. 17, 2014, <http://alerts.yahoo.com/>.

¹⁸² Bing, "Bing News," accessed Jan. 17, 2014, <http://www.bing.com/news>. (The media monitoring functionality of Bing is located under the "news alerts" link.)

¹⁸³ Jérémie Pernet, *Media Monitoring, Information Scanning and Intelligence for Human Rights NGOs* (Versoix, Switzerland: HURIDOCs, 2009), 18. Also available online at <http://www.huridocs.org/wp-content/uploads/2010/08/Media-monitoring-for-Human-rights-NGOs.pdf>.

¹⁸⁴ *Ibid.*, 19.

While listserves may be an effective way to obtain links to news reports, first-hand accounts and images of a human rights situation, monitors should be aware that the accuracy of the information distributed may not have been verified. Further, the listserve may have been created for a particular audience or subscribership, so the information provided may only present the situation from one point of view. As with other uncorroborated or biased sources, the information may still be useful in showing perceptions and fears caused by incidental policies. When using the information, advocates should cite the source and include the rationale for incorporating the information in their report.

iii. RSS

Really Simple Syndication (RSS) enables monitors to automatically receive and link information from informational websites. Information from a website feeds into and appears as displays on the individual's page as "widgets." Widgets present the first few phrases of information, allowing the reader to grasp what information is available on the source website. A monitor can create a personalized "dashboard" or "reader" of RSS and Atom feeds using tools such as Feedly, NewsBlur, Newsvibe, Feed Demon, The Old Reader, Digg Reader, InoReader, NetVibes, Reedah, CommaFeed and Pulse.

iv. Blogs

Blogs, short for "weblogs," are another tool in monitoring information on the web. Blogs can enable the monitor to learn of user-generated content that is not reported as news or an alert, such as Technorati, Ice Rocket Blog Search, Regator, Twingly, as well as Ask.com and Google. They are also used by activists and journalists facing restrictions of their freedoms of communication.¹⁸⁵

Monitors should use blogs with some caution, however. While factual content, photography and video in blogs should generally not be regarded as authoritative without secondary support, blogs can provide monitors with the latest commentary on a variety of topics from varying perspectives to gain an understanding of public perception and context. Monitors can sort out comments and opinions of users who do not write full blogs to gauge reactions. BackType provides a search engine function that allows searches to be formed in the database of social media information by keyword or person. Websites and applications like BoardReader enable monitors to search discussions on online forums, message boards, and blogs. Monitors can also follow microblogging on platforms such as Twitter, Tumblr, Plurk, Jaiku and Google Buzz. Monitors can also search for topics by using hashtag searches on microblogs such as Twitter.

v. Radio

When conducting media monitoring, activists can take advantage of websites and mobile apps like *tunein.com* to get free access to hundreds of thousands of global radio stations that stream live and provide on-demand content. For a fee, TuneIn also allows listeners to record anything heard through the service to play back at any time. Other sites providing global radio access include: *wunderradio.com*, *liveradio.net*, and *iHeartRadio.com* (in the U.S. only). *PublicRadioFan.com* is a website that allows the user to search for public radio stations anywhere in the world by location, format and language, as well as searching for programs by name. *PublicRadioFan* also has an extensive podcast directory.

Practitioner's Tip

During the monitoring process, advocates should take special care to record all relevant details about the sources of information gathered, including URLs if available. In the documentation stage, it is important to be able to cite the sources of information that substantiate any claims.

¹⁸⁵ Ibid., 9.

vi. Chat Rooms

Chat rooms provide another common means of electronic communication via PCs and mobile devices. Chat rooms allow real-time online conversations between one or more people anywhere in the world through instant messaging as well as video or voice communications. Most chat rooms also have the option for users to take part in discussions or public forums in a wide range of categories, enabling users to express opinions, learn, or discuss issues on a variety of topics. Mobile applications such as Skout encourage people to discover and connect with new people based on common interests.¹⁸⁶ PalTalk¹⁸⁷ and ooVoo¹⁸⁸ are examples of chat rooms available for both mobile and PC use; these services let users browse different chat rooms in a variety of topics.

Chat rooms provide both open and private forums of conversation. Some members of diaspora communities choose to use chat rooms to communicate with family and friends in countries with repressive environments because users can choose to be anonymous. This anonymity allows them to speak about issues they may not feel safe to publicly talk about. Anonymity does, however, make it more difficult to verify the credibility of the speaker. As with blogs and other sources, monitors should take care to verify the information with secondary sources.

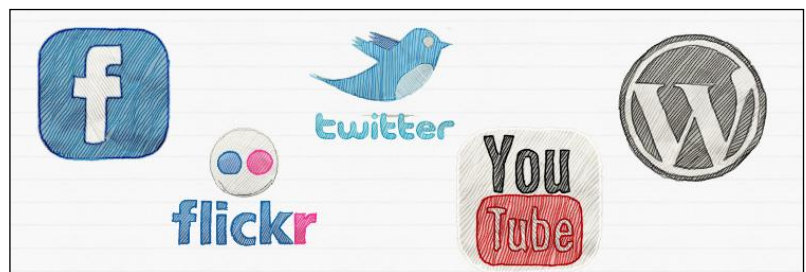
vii. Reddit

Reddit is one of the largest online communities on the Internet, as well as a social news and entertainment website. Content is generated by registered users who submit links to stories, reports, images, etc. or their own text posts. Users can vote for or against submissions, thus providing a popularity ranking system that determines what is seen on the website's pages and homepage. Reddit users also can comment on submissions on the site, which generates discussion between users.

Content on Reddit is organized by areas of interest called "subreddits." Any registered user can create a subreddit. Reddit can be a useful tool for following news and current information on a particular topic of interest (subreddit), as well as for connecting with others who share the same interests. Further, given the potential impact of its extensive virtual community, Reddit is increasingly being used to raise funding and publicity for philanthropic, humanitarian and political causes. Monitors should be aware, however, that Reddit has received criticism for the accuracy of information posted by users, most notably in the immediate aftermath of the Boston Marathon bombing when Reddit community members wrongly identified several people as suspects.¹⁸⁹

viii. Social Media

As the world has rapidly become more connected, social media tools are creating new possibilities for monitoring human rights. Social media platforms such as Facebook, Twitter, Instagram, Google+, YouTube, and Pinterest provide opportunities for rapidly communicating information about human rights abuses. The powerful use of social media during the Arab Spring of 2011 showed just how effective social media tools can be. (See Chapter 7 Advocacy, Part C beginning on page 135.)



¹⁸⁶ Skout, "About Skout," accessed Jan. 7, 2014, <http://www.skout.com/about.jsp>.

¹⁸⁷ Paltalk, "Popular Free Chat Rooms," accessed Jan. 7, 2014, <http://www.paltalk.com/g2/webapp/groups/GroupsPage.wmt>.

¹⁸⁸ Oovoo, "About Us," accessed Jan. 7, 2014, <http://www.oovoo.com/AboutUs.aspx>.

¹⁸⁹ Leslie Kaufman, *Bombings Trip Up Reddit in Its Turn in the Spotlight*, New York Times, Apr. 28, 2013, http://www.nytimes.com/2013/04/29/business/media/bombings-trip-up-reddit-in-its-turn-in-spotlight.html?_r=0.

Social Media Are a Driving Force Behind the Arab Spring

When vegetable merchant Mohammed Bouazizi set fire to himself in protest against the Tunisian government on December 17, 2010, no one would have predicted the extent of the political change throughout North Africa and the Middle East that would follow. Images and video of Bouazizi's self-immolation were shared through Facebook, Twitter, and YouTube, inspiring protests and calls for democracy. It was the first indication of the role that social media would play as a driving force behind the Arab Spring.

Focused mainly on Egypt and Tunisia, researchers at the University of Washington extensively analyzed information collected from Facebook, Twitter, YouTube and bloggers and concluded that:

- 1) **Social media played a central role in shaping political debates in the Arab Spring.** Young, urban, educated individuals, including many women, used social media before and during the revolutions to put pressure on their governments and to spread credible information to their supporters.
- 2) **A spike in online revolutionary conversations often preceded mass protests.**
- 3) **Democracy advocates used social media to connect with people outside their countries,** including supporters in the diaspora, Western media outlets, and followers in other countries in the region where similar democratic protests would later erupt.¹⁹⁰



More than just a tool for raising awareness about and mobilizing action on human rights issues, social media can be used in human rights monitoring. Social media tools can be used very effectively to provide real time information about emerging human rights situations.



Laila El-Haddad
@gazamom

Amnesty International: "What Detention Looks Like on Twitter"

Gaza activist Laila el-Haddad was stopped and detained with her family at the Cairo airport while transiting through Egypt. El-Haddad immediately started tweeting about her detention using her Twitter handle @gazamom. Via Twitter, she was able to describe what she experienced while she was questioned and detained. Other activists and friends also used Twitter to mobilize for her release and call for

¹⁹⁰ Project on Information Technology and Political Islam, *Opening Closed Regimes: What Was the Role of Social Media During the Arab Spring?* (2011), http://pitpi.org/wp-content/uploads/2013/02/2011_Howard-Duffy-Freelon-Hussain-Mari-Mazaid_pITPI.pdf.

U.S. and Egyptian authorities to investigate. Amnesty International USA wrote about el-Haddad's case on its blog.¹⁹¹

Information and images obtained through social media can also provide more specific details about an incident for an ongoing investigation or be used to cross-reference with other evidence. Increasingly, information and images that first came to light through social media have been used to fuel momentum for independent investigations. Further, social media offers the potential of monitoring information over longer periods of time in order to analyze trends like changes in public sentiment and increases in certain categories of human rights abuses.

Many different tools exist to monitor social media sites. Hootsuite, Google Analytics, Klout, Tweetdeck, Icerocket, Socialmention, and Buffer are just a few of the free tools that exist to monitor and analyze data on social media platforms. (The industry is constantly changing, however, and a search for social media monitoring tools on a search engine like Google may provide the most up-to-date information.) Another important step is to identify the “keywords” that will produce the best information. Most social media monitoring tools can search by keywords that describe locations, persons or groups, activities; etc.

While social media platforms can help monitors discover human rights abuses as they happen, verifying the information can be much more difficult. As with other sources of information, advocates should take care to verify that information received through social media is consistent with secondary reports or other reliable sources of information. If, as stated previously, advocates choose to use information that cannot be verified but nonetheless provides useful illustration, they should be sure to attribute the source of the information and state their purpose for including the information.

#Womenshould Campaign Highlights Negative Stereotypes Behind Google Search Results

A series of ads developed for UN Women used genuine Google searches to reveal the widespread prevalence of sexism and discrimination against women. The ads, based on the autocomplete results of actual searches made on 9 March, 2013, expose negative sentiments ranging from stereotyping to outright denial of women's rights. The ads display the text of the Google searches over the mouths of portraits of women, as if to silence their voices.



¹⁹¹ Geoffrey Mock, *What Detention Looks Like on Twitter*, Amnesty International Human Rights Now Blog, Apr. 8, 2009, <http://blog.amnestyusa.org/middle-east/what-detention-looks-like-on-twitter/>.

The ad campaign went viral in October 2013. UN Women reported that they were “heartened by the initial strong reaction to the ads and hopes they will spark constructive dialogue globally.”¹⁹² Individuals were asked to join the conversation on Twitter using the hashtag: #womenshould.

C. Monitoring Legislation in the Country of Origin

Policymakers may draft legislation in response to the recommendations from reports or studies, so legal reform is often a very real and desired outcome of human rights monitoring. When advocating for change in their country of origin, members of diaspora communities may find it useful to review existing laws to identify areas that do not comply with human rights obligations.

Monitoring legislative developments can help advocates track the progress of legislation they oppose or support, and prepare for new opportunities or threats to human rights in their communities. They may also want to monitor proposed legislation in order to take advantage of opportunities to submit comments, as this can be a valuable opportunity to influence policy decisions.

While it can often be challenging to access legislative processes, advocates can stay apprised of legislative developments with adequate planning and the right monitoring tools. Some governments make a lot of legal and legislative information available on websites, while others only have the capacity to make a small number of documents available electronically. Individual contacts and contacts with organizations in the home country may be critical to obtaining materials that are available only in hard copy. Diaspora community members may also be able to obtain copies of laws and other documents on return visits to their home country.

Media monitoring is an excellent, low-cost method of following new legislation and legislative debate. Many media outlets monitor legislative developments as a core component of their news gathering mission. Newspapers, in particular, often send reporters to cover the latest political developments, and their news stories provide a vast, free collection of legislative information which is in turn searchable by free, well-designed search engines (see the “Media Monitoring” section beginning on page 69).

Another option is to maintain working relationships with legislative staff members. By building relationships with sympathetic staff who are involved in the process, advocates can improve their access to news of the latest legislative developments. While staff may not be able to specifically track a particular legislative item in the way that a lobbyist would, they can serve as a valuable source of information on legislative changes.

Web-based research tools may also be used to find primary sources of foreign legislation, case law, and regulations. Legal materials from many countries in the world can be accessed and downloaded for free from the following foreign and international law portals.

Foreign and International Law Portals

Cornell Legal Information Institute: Global Law
<http://www.law.cornell.edu/world/>

The Cornell Legal Information Institute provides a collection of world legal materials, including constitutions, statutes, judicial opinions, and related legal material from around the globe.

¹⁹² UN Women, “UN Women ad series reveals widespread sexism,” Oct. 21, 2013, <http://www.unwomen.org/en/news/stories/2013/10/women-should-ads#sthash.AGjs5qwS.dpuf>.

Global Legal Information Network

<http://www.glin.gov/>

The Global Legal Information Network (GLIN) is a database of official texts of statutes, regulations, judicial decisions, and related legal materials contributed by government agencies from countries in the Americas, Europe, Africa and Asia. (The GLIN network is undergoing a transition and the site was unavailable as of January 31, 2014.)

Library of Congress: Guide to Law Online

<http://www.loc.gov/law/help/guide/nations.php>

Provides links to content-based websites of primary and secondary legal and legislative information services from 143 nations.

World Legal Information Institute

<http://www.worldlii.org/>

The World Legal Information Institute provides free access to case law, legislation, and regulations, as well as secondary legal material such as law review articles, for hundreds of jurisdictions around the world.

Chapter 6. Documentation: Writing the Report



A. Drawing Conclusions

Analyzing monitoring data and reaching conclusions is perhaps one of the most challenging and important stages of a monitoring and documentation project. It requires the advocate to examine what could be voluminous amounts of information and determine what those findings mean. Drawing conclusions is a process of synthesizing information, identifying patterns, themes, relationships, and causes. It requires continual verification, and advocates should be able to identify information that fits or contradicts the pattern as it emerges.¹⁹³

Documenting human rights violations requires advocates to evaluate the relationships that exist between data to identify and verify the themes.¹⁹⁴ Ultimately, advocates documenting human rights violations should evaluate the data that has been gathered, identify gaps or limitations in the information, compare the findings, and present them in a final report of some kind.¹⁹⁵ Advocates should remain flexible and revisit the data frequently. They should also expect that they may need to organize and reorganize the draft report more than once to develop the most effective delivery of the findings.

The following steps are meant to serve as a basic guide for advocates to follow as they seek to draw those conclusions. They may find all or some of these steps helpful, and they should adapt these steps as necessary to fit the context of their own project. Even with these steps, however, advocates should remember to trust their instincts. Advocates may have an initial impression, or instinct, about a conclusion. This intuition is extremely

¹⁹³ Matthew B. Miles and A. Michael Huberman, *Qualitative Data Analysis* (Newbury Park, CA: SAGE Publications, Inc., 1984), 22, 216.

¹⁹⁴ *Ibid.*, 224–26.

¹⁹⁵ *Ibid.*, 79.

valuable, particularly from those people most involved in the monitoring project. It requires other checks to verify and support the conclusion, but advocates should incorporate their intuition and judgment into the process.¹⁹⁶

Step 1. List Possible Themes Emerging from the Findings.

Making an initial list of themes helps with the organization and analysis of large amounts of information. This process¹⁹⁷ is the first step for advocates to begin identifying patterns and issues in the findings. Examples of themes include:

- Systems responders: Who are all the possible players, such as police, judges, health care providers, immigration officials, child protection agencies, or private business owners?
- Victim population: Who are the groups of people affected by the human rights violations?
- Human rights violations: What kinds of human rights violations were committed? How frequently?
- Major events in the timeline.
- Location: This can be as specific as a venue, such as housing, schools, airports, or as broad as a geographical boundary, such as neighborhoods and cities.
- Causes of the violation.
- Effects of the violation.

Advocates should be aware of underlying factors that reinforce, link, or undermine the theme. Advocates may identify several causes, but find different levels of connection between some causes and effects. For example, in the case of girls who are victims of sex trafficking, advocates may find that direct causes include poverty, gender-based violence, chemical abuse, gang involvement, lack of education, mental health issues, sexual orientation, language barriers, and age.¹⁹⁸ In addition, they may discover other facts such as time limitations on the availability of transitional housing. Because of this restriction, many of the girls are pulled back into trafficking networks when their transitional housing expires. The short duration of transitional housing is an example of an intervening variable: it is not necessarily the direct cause of the sex trafficking, but it aggravates the situation by sending the girls back to the streets.

Advocates should be open to changing this list of possible themes as they work through their findings. Advocates may find that themes initially identified lack substantiation and should be eliminated from the list. Similarly, as findings are analyzed, new themes may emerge. Advocates may discover that a particular theme actually consists of sub-categories and may want to split the theme into smaller, more specific themes.¹⁹⁹ For example, advocates may find that married and unmarried women have very different experiences of sexual harassment. In this case, it may make sense to split the theme of women into two subsets of married and unmarried women.

Step 2. Read and Re-read the Data and Information.

The data gathered during human rights monitoring dictates the documentation process and the ultimate form of the written report. Human rights documentation, therefore, requires complete familiarity with the data gathered. When used in tandem, the techniques of data immersion and of data coding help marshal large amounts of data and ensure that the information gathered is exhaustively considered.

¹⁹⁶ Ibid., 216–17.

¹⁹⁷ Ibid., 216.

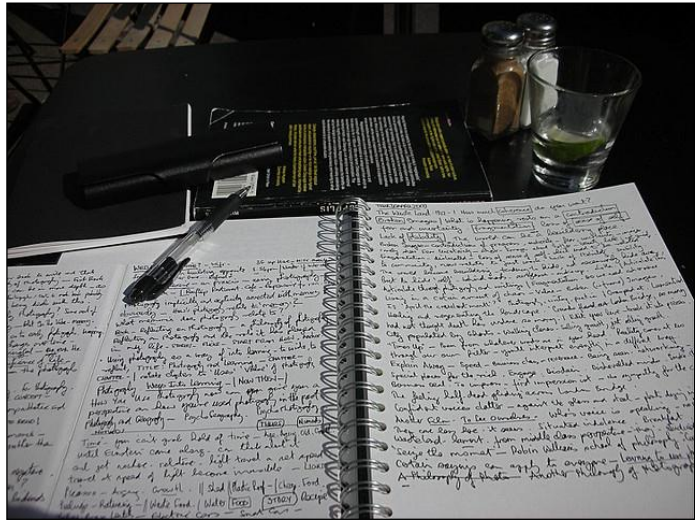
¹⁹⁸ The Advocates for Human Rights, *Sex Trafficking Needs Assessment for the State of Minnesota* (Minneapolis: The Advocates for Human Rights, 2nd ed. 2008), 21–22.

¹⁹⁹ Miles and Huberman, *Qualitative Data Analysis*, *supra* note 193, at 222.

i. Data Immersion

The advocate should read and re-read the information gathered, such as interview notes and documents.²⁰⁰ This process is known as data immersion and is a crucial step to gain familiarity with the information.

When reading through the data, advocates should look for patterns that reflect critical issues, exceptions to patterns, and extremes in either direction. They should look at connections, such as the relationships between events, victims, perpetrators, the information source, and the response.²⁰¹ They can also read for relationships, analyzing whether violations tend to occur in a certain location or point in time.



Advocates may find it helpful to read through documents reviewing one theme at a time. For example, an advocate monitoring the right to education may read through interview notes a first time looking for student experiences, a second time for parental involvement, a third time for teacher roles, and so on. Multiple readers should be involved, as one reader may recognize what another has missed.

Where there is a great deal of information, data immersion can sometimes result in the initial documents receiving the highest degree of scrutiny and the latter documents the least. To avoid such bias, advocates should consider reading through findings in a different or random order each time.

Human rights documentation often involves difficult subject matter. While data immersion is a necessary step in the documentation process, advocates should recognize and take steps to minimize potential vicarious or secondary trauma that can result from exposure to traumatic stories and can interfere with the reader's ability to objectively analyze the data.

ii. Data Coding

Clustering or sorting information into categories helps advocates systematically review the data and draw conclusions. Clustering violations, events, acts, processes, actors, and settings allows advocates to view subsets of data based on similar attributes.²⁰² Data coding can assist advocates in reviewing and analyzing large amounts of data. Data coding need not be elaborate or high-tech. Advocates essentially label pieces of information with codes that correspond to different themes, patterns, or relationships²⁰³ allowing them to analyze the information.

Advocates first must identify and make a code list of the themes, patterns, and relationships they are seeking. Next, the advocate tags text within the data with the applicable codes. Advocates can simply write the codes directly on the hard copies to be later pulled out into individually coded documents, or if the documents are in

²⁰⁰ Mary Ellsberg and Lori Heise, *Researching Violence Against Women: A Practical Guide For Researchers and Activists*, (Geneva: World Health Organization and Program for Appropriate Technology in Health (PATH), 2005), 204. Also available online at http://www.path.org/publications/files/GBV_rvaw_complete.pdf.

²⁰¹ Manuel Guzman, *Getting the Facts Down: Documenting Human Rights Violations* (Bangkok: Asia Forum for Human Rights and Development (FORUM-ASIA), 1997), 20–22.

²⁰² Miles and Huberman, *Qualitative Data Analysis*, *supra* note 193, at 218–21.

²⁰³ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 200, at 204.

electronic form, word searches for key terms can facilitate the data coding process.²⁰⁴ As discussed in the section on interview protocol, controlled vocabulary is essential if relying on electronic key word searches.

Once the text is coded, information may be handled using a variety of tools from the simple to the elaborate. Advocates can copy and paste text into word processing documents sectioned by code themes. They can use a spreadsheet program to create row and column headings for each code, corresponding text, sources, and notes. Coding software programs exist, including a number of free, available programs.²⁰⁵ Using computer-based software requires an initial investment of labor and time to create and enter the data and may be best used for large scale monitoring projects.²⁰⁶ Where access to electronic software is limited, the author can also cut and paste or handwrite each of the texts onto individual coded cards, a more labor-intensive process but still workable. In all cases, authors should ensure that a citation (coded or not) is included so the original source is known.

Step 3. Data Analysis.

Documentation of human rights violations requires analysis of information and the identification of patterns and relationships. Human rights documentation goes beyond the numbers and may find significance in rare events that reveal a failure to protect or fulfill human rights standards.

Simple counting of types of data can help identify patterns and trends in qualitative information. Counting reduces qualitative data to numbers, helping advocates to identify findings or themes with higher or lower frequency. It provides a quick synopsis of what is contained in massive amounts of information, can corroborate an idea, and can safeguard against unintended bias.²⁰⁷

Factoring, or the compression of a larger set of data into a smaller set of descriptive, unobserved variables, may also be helpful in revealing relationships and patterns. Factoring condenses mass amounts of information into fewer themes. Advocates take a set of information or variables and list short descriptive factors for each one until they find the factor(s) common to everything in that set. The advocate applies this approach to each set of information or variables to determine the common factors for each set. By comparing the different factors across information sets, advocates can illuminate contrasts between those factors and ask if those factors make a difference.²⁰⁸



²⁰⁴ Ibid.

²⁰⁵ Ibid., 209; Umeå University Department of Public Health and Clinical Medicine, "Open Code 4.01," <http://www.phmed.umu.se/english/divisions/epidemiology/research/open-code/>; Centers for Disease Control and Prevention, "Software," <http://www.cdc.gov/hiv/topics/surveillance/resources/software/ez-text/index.htm>; Centers for Disease Control and Prevention, "ANSWR," <http://www.cdc.gov/hiv/topics/surveillance/resources/software/answr/index.htm> (noting that free open coding programs Open Code, CDC EZ Text, and ANSWR are available).

²⁰⁶ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 200, at 209.

²⁰⁷ Miles and Huberman, *Qualitative Data Analysis*, *supra* note 193, at 215.

²⁰⁸ Ibid., 223–24.

Depending on the type of data gathered, data displays (such as graphs, flow charts, or diagrams) may help advocates examine and understand the data and the relationships.²⁰⁹

Step 4. Breaking the Findings Down to the Conceptual Level.

Once data has been analyzed, the advocate can begin to draw conclusions. This process, known as data reduction, boils down raw data to the overarching concepts²¹⁰ as a way of drawing conclusions.²¹¹ Another way to think of data reduction is as a process that allows the advocate “to see the forest for the trees.”

Advocates can draw connections where there is a pattern of multiple, varied respondents, each suggesting a relationship among the same elements.²¹²

Step 5. Maximizing Validity and Reliability.

A process of information gathering is *valid* when it reflects the reality of the situation as accurately as possible. A process of information gathering is *reliable* when it generates the same results over and over again. Thus, processes may be reliable but invalid, and vice versa. Multiple people may make the same observation, but it may still not be true because of a number of factors.

Validity and reliability are greatly enhanced when:

- Monitors are well-trained and follow protocols consistently;
- Multiple methods are used so that data from different sources can be compared—known as triangulation of data;
- The length of the monitoring is sufficient to provide the fact-finder with solid knowledge of the issue;²¹³
- Conclusions are reviewed both by experts on the issue and by people who are new to the issue;²¹⁴
- Perceptions and facts are clearly distinguished in the final product; and
- An audit trail is created to ensure that the process can be replicated.²¹⁵

Advocates should establish a uniform mechanism for assessing the validity of interview information through corroboration processes with independent sources.²¹⁶ Advocates can corroborate information from respondents with other interviews or secondary sources before drawing conclusions.

Centre on Housing Rights and Evictions (COHRE): Writing a Human Rights Report

The Centre on Housing Rights and Evictions (COHRE) is an international human rights organization that works for the protection of housing rights and the prevention of forced evictions around the world. COHRE has produced a number of human rights reports on housing rights around the world using fact-finding through interviews and research. COHRE’s documentation process provides an example of how to analyze research findings to draft a human rights report.



²⁰⁹ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 200, at 204, 209–11.

²¹⁰ Miles and Huberman, *Qualitative Data Analysis*, *supra* note 193, at 21; Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 200, at 209.

²¹¹ Miles and Huberman, *Qualitative Data Analysis*, *supra* note 193, at 21.

²¹² *Ibid.*, 227–28.

²¹³ Sharan B. Merriam and Associates, *Qualitative Research in Practice* (San Francisco: Jossey-Bass, 2002), 26.

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*, 27. An audit trail documents the monitoring methodology, the determination of codes and themes, the analysis of the findings, and the drawing of conclusions. It essentially tracks how and why the advocate uses the collected information.

²¹⁶ The Advocates for Human Rights, “Monitoring, Fact-Finding, Reporting” (unpublished powerpoint presentation on file with The Advocates).

After the monitoring stage, COHRE conducts a broad examination of the research findings to identify the most pressing trends and most relevant facts for a human rights report. There are several steps that can facilitate this selection process: knowing the data set very well, thinking through how to present that information in a way that is audience-appropriate, considering what main messages the report should communicate, and knowing what issues should be the lead stories. Another important consideration at this stage is to evaluate how to structure the report. For COHRE, thinking about the report organization and issues and drafting a preliminary table of contents early on, even before the methodology is developed, can help writers in handling their findings. Indeed, as a COHRE staff member acknowledges, organizing the findings in a coherent manner can be one of the biggest challenges in writing a report. It takes practice and experience to apply a human rights framework to findings in their raw form and then reconfigure that data in the new form.

Handling conflicting findings

Advocates may encounter conflicting findings in their research. For example, different groups of interviewees may have each articulated different needs that conflict with each other. When this happens in its research, COHRE closely examines its findings to discover where the disconnect lies. Questions an advocate might ask in this instance are:

- Why are there conflicting findings?
- Is it a fundamental flaw in methodology?
- Are we asking questions in different ways to people and getting different answers?
- Or are these conflicts more indicative of the real differences of people?

COHRE asks where these discrepancies are and delves deeper to see what aspects of different people's experiences impact how they have answered the questions.

Drawing conclusions

Once the main issues from the findings are identified, the next step is to develop conclusions, or a more analytical summary of the main findings. Drawing conclusions requires advocates to identify the trends that were the most dramatic and visible in the results. Conclusions are generally very broad, but wrap up the report, highlight the main themes, and revisit the main messages that the audience should take away from the report.

Promoting validity and credibility

COHRE also takes steps to uphold transparency about its methodology and its limitations as a way of promoting validity and credibility in its reports. To do so, it ensures the methodology discloses details, such as the number of people interviewed, where the interviews took place, what kinds of questions were asked, and other elements. In its report *Women, Slums and Urbanisation*, COHRE explains that it used focus groups and one-on-one interviews with women living in approximately twenty slum areas in six cities. In each of the cities, it named the slum communities visited, described the relevant characteristics of the women interviewed, and noted any limitations in the fact-finding and possible reasons for these limitations. Such transparency about fact-finding methods is particularly important for human rights research aimed at advocacy, because such reports can sometimes create the perception that the research is biased or not reflective of the whole truth. Thus, addressing those issues and

demonstrating the soundness of methods in a report is important to enable readers to understand that the facts were found through tested research.²¹⁷

B. Developing the Outline

There are numerous ways to structure a report, and authors should consider the possible variations. One place to start is to consider the different sections needed to present the information. A report can contain multiple components, such as:

- Title page
- Copyright information
- Foreword or preface
- Authors and acknowledgements
- Table of contents
- Executive summary
- Methodology
- Introduction
- Findings
- Analysis of findings
- Recommendations
- Conclusion or afterword
- Appendices, such as:
 - Laws and policies
 - List of tables
 - Template forms
 - Glossary
 - Acronyms list
 - Timeline of key events
 - Photos and other evidentiary items
 - Bibliography or reference list
- Index

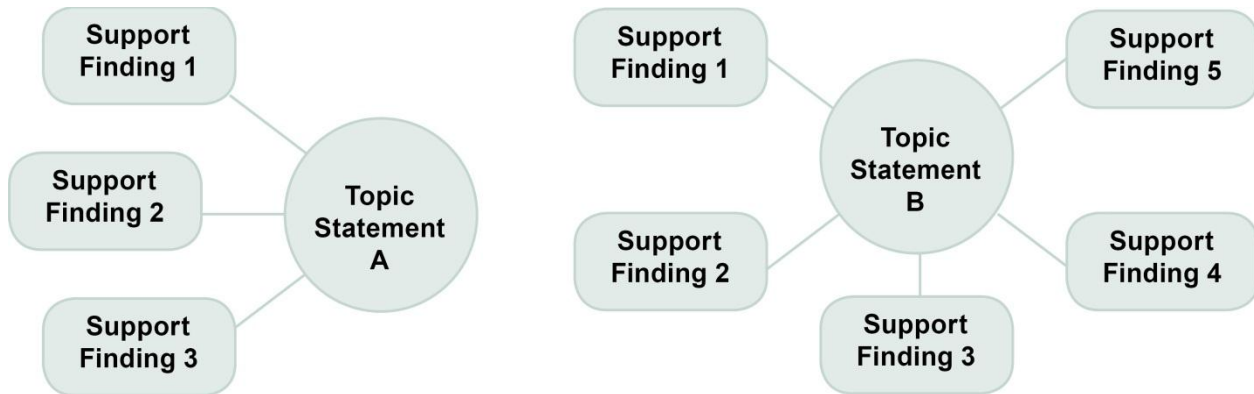
Most of the substantive findings, however, will be found in the main body of the report. Advocates should commit time to planning how best to present the findings and analysis in the publication. On a basic level, authors can structure their report based on their initial research questions. Yet, that structure may not appear immediately logical to an outside reader, nor may it be the most effective way of presenting the information. Indeed, knowing the report's purpose and audience can help advocates choose the right format.

A report may have multiple purposes, and advocates should clearly identify what they want theirs to be. A report can serve to educate readers about a general human rights violation, inform them of the project's findings, make recommendations, and serve as a basis for an advocacy campaign. Knowing the report's purpose(s) will help guide authors in developing its structure.²¹⁸

²¹⁷ Interview with COHRE staff person, by The Advocates for Human Rights, Nov. 10, 2010; Women, Slums and Urbanisation, COHRE, 2008.

²¹⁸ See Chapter 3(B), Step 1. Determine Your Objectives.

A good starting place in developing the outline is to begin with a rough outline sketch. The rough outline can be developed in a variety of ways. Advocates can draft a rough outline by listing topic statements with the supporting findings. Another tactic is to diagram clusters of ideas:²¹⁹



Once the advocates have a rough sketch of the outline, basic topic statements, and supporting findings, the next step is to create a full outline. As with other stages of the project, authors should remain flexible and recognize that they may need to step back and re-write the outline throughout the report-drafting stage. When advocates have a written draft, it may become clear that the selected outline is not the most effective way of presenting the information, and they should be prepared to shift the report structure to better present their findings.

Knowing who the target audience is will also help inform the structure of the report. Organizing the report chronologically may make the findings clearer for a general audience with less understanding about a human rights framework. If drafting targeted recommendations for different professional bodies, organizing the report by sector allows readers to go directly to their section of the report. Or, where the audience is a body that works within a human rights framework, presenting the information according to each human right aligns with the target audience's objectives and is a more appropriate format.

The following are some possible structures for the main body of a human rights report. They are neither exhaustive nor exclusive, and advocates can combine them to fit the purpose and audience.

i. By Human Rights Issues

Authors may choose to organize the report by each human rights violation. This approach compartmentalizes the information into each of the various violations. Under this structure, a report that examines a criminal justice system would have separate sections addressing each of the associated rights, such as the right to due process, right to liberty and security of person, and freedom from discrimination.

For readers seeking information on specific abuses, this structure provides a direct pathway to that information. Constructing a report based on human rights violations can be challenging, however, because there may be a great deal of overlap among violations, resulting in redundancy or confusion. Also, presenting one violation after another may lead to reader fatigue.

ii. Chronologically

Authors may choose to organize the report chronologically. This approach may be appropriate where the project is examining abuses related to an event or series of events. Chronological organization also can facilitate information flow and make it easier for a reader to track the information. Authors may face the challenge,

²¹⁹ Diana Hacker, "Sections C1-d," *A Writer's Reference* (Bedford/St. Martins: New York, 4th ed. 1999), 6, 10–11.

however, of incorporating human rights violations that did not occur just one time but span the entire timeline repeatedly. They also should consider how to incorporate nuanced factors that lack a distinct place on the timeline, such as economic or political dynamics.

iii. By Government Actor Response

Organizing the report by government actor response may be an appropriate format where the project is focused on a particular human rights issue, rather than a historical event, and the organization is seeking legal or systems change. Examples of the content of each section are the respective roles and responsibilities of each government actor, response processes, positive actions, and problem areas. For example, a report examining sex trafficking of victims might include chapters that discuss the role and responses by law enforcement, immigration authorities, prosecutors, judges, civil society organizations, social services, child protection, and health professionals.

C. Writing the Report

i. Audience

Authors should be aware of their audience. Knowing the audience will help inform authors' decisions regarding what content to include, how best to present it, and to whom to target recommendations. Some basic questions to ask include:

- Who is the audience, and how many potential audiences are there?
- What are the authors' relationships to the audience? How will the content and tone impact these relationships?
- How informed is the audience? Do they have an advanced reading and vocabulary level? Are they experts in the field and familiar with jargon? Aiming for an eighth grade reading level is a good standard when the audience is broad or the general public. Some word processing software includes tools to gauge the reading level of the document.
- What does the audience need to know from the report?
- How receptive will the audience be to the information? How much time is the audience prepared to invest in reading the publication?
- What information does the audience most want to know? What information is the most important to communicate to achieve the project mandate?
- What information is new or adds value to the current knowledge in the field?
- What should the audience know or discover about the human rights issue?²²⁰

ii. Report Tone, Style, and Credibility

Advocates should carefully analyze how to present their findings. Advocates should consider explaining their methodology for collecting information and making recommendations to readers while respecting confidentiality. This transparency helps assure readers the results are valid, credible, and based on sound fact-finding.

An important consideration is to exercise caution when presenting project findings and avoid reporting them as established facts unless they have been verified as such. Nevertheless, even perceptions without grounding in fact may have value. When interviews reveal an uncorroborated finding, they may not deliver a hard fact but they do expose perceptions or patterns that can be indicative of a truth. The perceptions held by interviewees can be reflective of the fears that stem from broader human rights abuses. Where the authors find a pattern that is prevalent enough to be included, authors should rephrase to more accurately reflect the finding for what it is: a

²²⁰ Adapted from The Writing Center, University of North Carolina at Chapel Hill, "Audience," <http://www.unc.edu/depts/wcweb/handouts/audience.html>; Hacker, *A Writer's Reference*, *supra* note 219, Section C1-b, 4.

perception, pattern, or a trend. Prefacing findings with “interviewees reported” or “interviews revealed” can help promote accuracy and maintain the report’s integrity. Disclaimers notifying the reader of certain considerations, cite-checking processes, and leaving an audit trail are important measures to promote credibility.

Wording can also influence the report’s tone, which can have a long-reaching impact on the advocacy phase of the project. For example, stating that a government has “failed to comply with its human rights obligations” has the same meaning as stating that a government “is not in compliance with its human rights obligations.” Yet, both statements send a slightly different message. The first phrase conveys a slightly more confrontational and accusatory tone, while the second reflects a more objective stance. Both can have different consequences for working with government officials in the advocacy phase. Organizations should consider these long-term effects on actors and aim for accuracy and objectivity in language.

Language that is accusatory or incendiary can also lessen the credibility of the report. In general, advocates should make a concerted effort to use neutral, objective, non-adversarial language and tone when drafting a report. A report that is not considered objective, or that is considered overtly political, may not be taken seriously because of the perception that the information that it contains is not credible. In some cases, such as reports written for submission to the UN human rights mechanisms, the use of manifestly abusive language may mean that the report is not even considered. A report loses credibility when it includes emotions and subjective opinion, so it is critical to take care in the drafting and editing stages.

Avoiding Abusive Language and Tone

Word choice can have a big impact on the credibility of a report. For instance, referring to a government action as “evil” is less effective than saying that by taking the action, the government “failed to comply with its human rights obligations.”

The following is an example of a statement that uses a language and tone that could be considered abusive, followed by a version of the same statement written in a neutral, non-adversarial style.

Before: “The sole purpose for the United States to maintain Cuba on a unilateral and arbitrary list of ‘State Sponsors of Terrorism’ is to merely justify the blockade policy against Cuba. It is intended also to justify the adoption of new measures to pursue financial and commercial transactions, which are linked to terrorism in order to strangle the Cuban economy. The U.S. Government attempts to keep up with its exercise using a new and slanderous insinuation about the alleged lack of measures present in the Cuban banking system to deal with money laundering and financial transactions linked to terrorism.”

After: “The United States does not have evidence that justifies keeping Cuba on a list of ‘State Sponsors of Terrorism.’ By upholding this policy, however, the U.S. Government is able to maintain the blockade policy against Cuba. It also allows the U.S. to defend the adoption of new measures to pursue financial and commercial transactions, which harms the Cuban economy. Additionally, the U.S. government makes the unsubstantiated claim that Cuba presently lacks measures to deal with money laundering and financial transactions linked to terrorism.”

Another important component of credibility is the citation of credible sources. Each factual claim in the report, no matter how minor, should be supported with a footnote that provides a citation for the source of information that is the basis for the claim. Advocates should avoid relying on secondary sources that are incendiary, biased, or unreliable. Advocates should be particularly careful when relying on internet-based sources that are not affiliated with a credible organization or individual.

iii. Using Stories and Experiences

Using stories and experiences of interviewees can be a powerful tool. It can help illustrate the magnitude of the problem, as well as buttress a conclusion. Authors can present these stories as a narrative or as block quotes. When doing so, however, they should remember to do no harm and ensure that parts of the story have been redacted to protect the source. Particularly when interviewees fear for their safety, authors should avoid using a traditional interview citation, and instead code the interviews for reference purposes.

iv. Understand Potential Consequences

Human rights reports often have a major impact on the communities involved in the violation. The tone, choice of words and presentation of the information can greatly affect the message and the positive or negative impact on the community. For example, where stereotypes are prevalent, identifying a key feature of the source or victim, such as ethnicity, might reinforce those stereotypes and diminish the effectiveness of the message. For example, in a report on battered immigrant women, The Advocates for Human Rights made a conscious decision to omit information about the ethnicity of the interviewee. The organization omitted this particular identifier because the barriers to safety and accountability in the justice system were consistent across ethnic groups. Identification of the ethnicity or country of origin of the interviewee would possibly reinforce negative myths and distract from the issues being highlighted.

In addition, advocates must consider the impact the report will have on subsequent advocacy efforts. They should keep in mind the possibility that they may be later working with the same people they are currently criticizing, leading to an uncomfortable or challenging work relationship. Advocates should consider the potential damage to relationships in releasing a credible and critical report. Some options for advocates are to evaluate the roles they and other stakeholders can play. If one organization carries out the monitoring and documentation, then another partner organization assumes the advocacy role. Another alternative is to engage a non-local partner organization without any potential community-based conflicts of interest to conduct the monitoring and documentation.

v. Editing

Advocates should be prepared to revise and rewrite the report as needed. They should build in sufficient time for the drafting but also regard it as an ongoing process of evaluation. Authors should ensure that the report is original work, and any sources used are properly paraphrased and cited. It may be helpful to draw up basic citation guidelines for authors and editors. There are various methods of citation styles, including the Chicago, American Psychological Association (APA), Modern Language Association (MLA), and Bluebook styles, that the organization can use as a reference. Authors will likely need to conduct broad revisions to ensure the report meets the project goals and detailed revisions, such as copy editing. In addition, authors should build in time for expert review.



D. Drafting Recommendations

When developing recommendations, advocates should use an international human rights framework as the standard for defining the problems and developing proposed solutions. Although advocates will use state and other laws as reference points, human rights standards can provide the overarching framework. Advocates should apply their findings to this framework and evaluate whether the relevant human rights standards are being fulfilled. They should be prepared to recognize two kinds of violations: (1) where the language of the law itself

violates international human rights standards; and (2) where the laws and policies appear to comply with international human rights standards, but in practice, have an impact that violates these standards.

When authors have identified what those problems are, they should evaluate each of the desired outcomes. In other words, what do they want to see happen that would meet the human rights standard?

The next step is to determine the changes necessary to remedy the human rights violation. Does the change require training, funding, victim assistance and protection, offender accountability, or legal reform? Would that measure remedy the problem and help realize the human right? Advocates should also consider whose involvement is required for those measures. Does the change require the involvement of lawmakers, law enforcement, judges, prosecutors, health care providers, media, civil society organizations, state agencies, or private enterprises?

The following are some tips for advocates to keep in mind when drafting recommendations:

- Talk to the affected population. Consult with the affected population or those who work directly with them to get their opinions about what measures will best remedy the situation.²²¹
- Identify and highlight the most important changes necessary for the desired outcome. Consider identifying and highlighting priority recommendations, particularly where there are numerous recommendations.
- Provide support for the recommendations. Another effective tactic is to precede each recommendation with the corresponding finding giving rise to the need for change.
- Be creative. Advocates can be creative where appropriate to fit the particular context. Including no-cost recommendations with symbolic value is one way to address situations where money is scarce or the human rights violations no longer require a tangible remedy. For example, recommending that the government issue a formal apology or that the city declare a local holiday or name a street in commemoration of victims are important symbolic gestures.

E. Review

i. Substantive Review

Authors should consider having experts review the report, either in its entirety or in sections. Reviewers can include experts in the community who the authors know and trust, or they can include outside experts, such as field advocates, academics, or authors of related works. Authors may also consider using a reviewer without expertise on the subject matter to test the report's coherence for the average reader.

This review phase takes substantial time, as it requires identifying experts who are available, allowing for their substantive review, and incorporating their comments. The time for substantive review will depend on various factors, such as the length of the report, the expert's schedule, the author's schedule, the extent of the expert comments, and amount of additional research required to address them. Authors should allocate sufficient time to this phase of the documentation process and contact the experts well in advance to accommodate their schedules and give them sufficient time to thoroughly review the report.

When the review is finished, organizations should use their best judgment and keep the project mandate in mind when incorporating experts' comments. In some cases, advocates may find it appropriate to disregard their

²²¹ Karyn Kaplan, *Human Rights Documentation: A Guide for Organizations of People Who Use Drugs* (New York: Open Society Institute, 2009), 57.

suggestions. They may not always agree with the expert opinion, or it may conflict with the organization's overall position.

ii. Editorial Review

Authors should incorporate an editorial review of the report before publication. In general, editors can review the report for:

- clarity
- readability
- spelling
- grammar
- punctuation
- parallel structure
- consistent verb tense
- formatting
- consistency between table of contents, heading sections, and page numbers
- general layout concerns.

Authors should inform editors of which style method they are using, such as Chicago or MLA. Authors can consider providing editors with their own guidelines for editing or refer editors to other resources. There are several resources available online, such as <http://www.bartleby.com/141/index.html> and <http://goodtools.net/pages/SUNstyle/copyedit.htm>.

iii. Roundtable Discussions with Government Officials

Holding a roundtable discussion to present the findings to officials and leaders prior to the formal release of the report can be an important strategy in legitimizing the process. In some cases, it is more than a common courtesy as it affects all the key stakeholders and grants them the opportunity to react to the report and engage in dialogue before its release to the public. The pre-release to the stakeholders promotes accuracy and allows them to provide comments to the report and to prepare to respond publicly to the report when it is released.

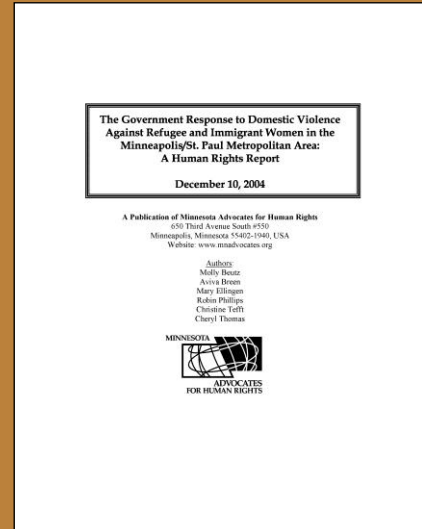
Some comments provided by outside stakeholders may be extremely helpful and contribute to the overall accuracy of the report, while others may be self-serving and compromise the integrity of the report. Advocates must be prepared to defend their findings and explain why some of the comments may not be incorporated into the report. Hosting a roundtable discussion with representatives from stakeholder groups may also result in angry responses from the participants, particularly where the report is critical of those groups. Advocates should anticipate and be prepared to respond to this hostility and consider scheduling follow-up meetings with those representatives afterward. Open communication is essential to the effective use of the roundtable format in a monitoring project.

The Advocates for Human Rights: Holding a Pre-Release Roundtable for the Battered Immigrant and Refugee Women's Documentation Project Report

The Advocates for Human Rights documented the government response to domestic violence in immigrant communities at the request of the Immigrant and Refugee Battered Women's Task Force. The report focused on the Minneapolis-St. Paul Metropolitan area. After extensive interviews and research, The Advocates prepared a detailed report of its findings. One week prior to finalizing the report, The Advocates sent an embargoed copy of the report to the directors of the government agencies that were highlighted in the report as having particular responsibility related to battered immigrant women. A few weeks prior to receiving the report, an invitation had

been sent to these agencies to a roundtable discussion about the report. The purpose of the roundtable was to give these agencies an opportunity to respond and discuss issues with The Advocates before the report became public. At the roundtable, these agencies were invited to point out any inaccuracies, concerns or disagreements they had with the findings. This process allowed The Advocates to correct any errors that might have been misleading. It also gave the government agencies not only the opportunity to address any concerns they had with the report but also to prepare for the media attention the report generated. It is important to note that The Advocates did not represent that it would make any change requested by the agencies but rather that it was open to discussion and further information about issues presented in the report and would consider changes requested.

The roundtable discussion was extremely productive. Senior government officials attended, including the county attorneys of Minneapolis and St. Paul, the head of the local U.S. Immigration office, the police and sheriff's departments, as well as one of the Justices of Minnesota's Supreme Court. The Advocates was able to clarify some minor points in the report, and each agency was able to express how the problems in the government response impacted them. While not everyone agreed with all of the individual findings, there was a consensus that the report was accurate and the government response should be improved. It was the beginning of an effective collaborative effort to address some of the breakdowns in the system response to battered immigrant women, making the cities safer for victims of domestic violence and providing greater accountability for violent offenders.



F. Final Steps

i. Copyright Information



Advocates should also consider copyright issues. An understanding of copyright law is important both to avoid infringing the copyrights of others and to protect the copyright in an advocate's own work. When quoting materials written by others, advocates should cite the source and obtain permission when appropriate.

The following discussion provides a general overview of copyright in the United States for the purposes of illustration. Like any summary of a complex subject, the following discussion is not complete and is subject to exceptions. Advocates may want to consult an attorney or visit the U.S. Copyright Agency's website for more information, at www.copyright.gov. Copyright Office Circular 1, available at <http://www.copyright.gov/circls/circ1.pdf>, is the source of much of the information contained in this summary. If the report will be published in a country other than the United States, advocates should check the applicable copyright laws in that country.

Copyright protects the authors of "original works of authorship" fixed in a tangible form of expression, e.g., written, recorded, or videotaped. An author has the exclusive right to reproduce the work, create derivative works from the work, sell, rent, lend, or transfer copies of the work to the public, and perform and display the work in public. The author has the right to grant permission to others to do the same with the work.

Works of the U.S. government are not protected by copyright. Ideas are not protected by copyright; rather, only the tangible expression of ideas is protected by copyright. An important exception to the exclusive rights of an author is the “fair use” exception, available *under certain circumstances* for purposes such as criticism, comment, news reporting, teaching, scholarship, or research.²²² Whether the fair use exception applies is often difficult to determine.

Copyright belongs to the person who created the work (the author). The author of a “work made for hire” is the employer or other person for whom the work was prepared. Work is made for hire if the work was created by an employee within the scope of his or her employment, or if the work is one of several types specifically identified in the copyright law, including a contribution to a collective work, that was specially ordered or commissioned and that the parties agreed in writing was a “work made for hire.”²²³ A report drafted by advocates and volunteers for an organization may be a work made for hire. To ensure the organization owns the copyright, advocates should obtain a written agreement to that effect. Ownership of a copy of a work does not confer ownership of the copyright in the work.

Copyright is an automatic right that begins upon creation of the work. The duration of copyright varies, depending on when the work was created and other factors. For works created after 1977, copyright ends seventy years after the author’s death or, in a work made for hire, the earlier of 95 years after publication or 120 years after creation.²²⁴

Advocates need take no action to obtain copyright in a work they have created—it vests immediately when the work is created. Registration of the copyright and notice of copyright on the work are not required to confer copyright.²²⁵ There are, however, advantages to printing notice and registering copyright of the work.

Printing notice of the copyright on the work advises the public of its copyright protection, names the copyright owner, documents the publication year, and can serve as important evidence in a case of copyright infringement. A proper notice of copyright includes the following elements:

© or “Copyright” year of the first publication copyright owner’s name

For example: © 2014 The Advocates for Human Rights

For unpublished works, the advocate may still want to print a notice of copyright:

For example: Unpublished work © 2014 The Advocates for Human Rights

Publishing a work involves distributing copies of the work “to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display constitutes publication. A public performance or display of a work does not itself constitute publication.”²²⁶ Publication can affect copyright protection, and it obligates the owner to deposit the work in the Copyright Office.

Registering a work with the Copyright Office involves sending an application, filing fee, and a copy of the work for registration to the Copyright Office. Registration has several benefits, as it:

- Establishes a public record of the claim of copyright ownership;

²²² 17 U.S.C. § 107, U.S. Copyright Office, “Fair Use,” *Circular 102* (Washington D.C.: U.S. Copyright Office, Oct. 2009).

²²³ U.S. Copyright Office, “Copyright Basics,” *Circular 1* (Washington, D.C.: U.S. Copyright Office, August, 2010), 5.

²²⁴ *Ibid.*

²²⁵ *Ibid.*, 3.

²²⁶ *Ibid.*, 3.

- Is a prerequisite for bringing a copyright infringement lawsuit;
- May be evidence of the validity of the copyright; and
- May entitle the copyright owner to recover greater damages in a lawsuit, as well as attorney's fees.²²⁷

ii. ISBN Information

Advocates who publish their own works should obtain an International Standard Book Number (ISBN), a 10-digit number that serves as a unique identifier of books. The United States' ISBN Agency, Bowker, is the official supplier of ISBNs for publishers. Importantly, the ISBN publisher identifier is unique to each applying publisher.²²⁸ Once the advocate obtains its exclusive ISBN publisher prefix and associated list of ISBNs, it can assign those ISBNs to publications for which it holds publishing rights. A publisher may not re-assign, sell, or transfer any of the numbers obtained to another publisher.²²⁹ This rule protects the integrity of the ISBNs and prevents misrepresentation of the actual publisher of the work. Therefore, advocates should be cautious about buying ISBNs from sources other than the ISBN Agency.

To apply for an ISBN, the advocate can fill out an ISBN application at Myidentifier.com and receive an ISBN instantly. The advocate should ensure that all copies of the report have the assigned ISBN listed.

iii. Printing the Report

Advocates can make the report available in an electronic format to be distributed through online channels. The advantages of this method are that it is highly cost-effective and can promote distribution of the report. On the other hand, advocates will either need to make the report available for download free-of-charge or set up a payment system. Charging for report sales can trigger sales tax, and the organization will need to obtain tax advice on tax implications.

Advocates should be strategic in scheduling the timing of the report's release. For example, releasing the report in anticipation of or on a significant anniversary date can draw heightened attention. Timing a report to coincide with dates, such as human rights day (December 10), World Day against the Death Penalty (October 10), 16 Days of Activism against Gender Violence Campaign (November 25 to December 10), or anniversary dates of major events, can provide a strong incentive for media, officials, and the public to pay attention. If the report's completion is toward the end of the calendar year, advocates may want to consider waiting until January to release the report to avoid the appearance that the publication is outdated by having a date in the previous year.

Advocates can also design and produce print copies of the report. Having print copies can be costly, but it also provides a powerful visual aid that they can distribute to stakeholders, funders, and affected populations. Advocates can check with local printers or explore a number of online options for best price, options, and quality.

Advocates can also explore online publishers that print, distribute, and sell the report. For example, CreateSpace is an online publisher that allows anyone to print and distribute a work on a private website, Amazon.com, and other retailers. For a membership fee, advocates can upload and create their product, receive a proof copy, place an order for any minimum number of print copies, and sell the finished product through retailers. Benefits and drawbacks of using an online publisher will vary depending on the company, but a few advantages and disadvantages are noted below:

Advantages:

- Can easily use and upload the publication.
- Can obtain ISBN from publisher.

²²⁷ Ibid., 7.

²²⁸ Bowker U.S. ISBN Agency, "General Questions," accessed Jan. 17, 2014, http://www.isbn.org/standards/home/about/faqs_main.html.

²²⁹ Ibid.

- Removes the printing, sales processing, and shipping burden from the advocate if he or she chooses to sell through the online retailer.
- Receive sales updates and royalty checks from publisher.
- Gives wider distribution through online retailers, such as Amazon.com.
- Can order prints as needed, with no minimum requirement, and no bulk step shipping costs.

Disadvantages:

- Must pay a fee.
- Must work within the online publisher's formatting and design parameters.
- Can take time to receive print copies of the proof and final copies.
- Must pay shipping costs for prints ordered.
- Must do the initial layout or use the services of an expert designer to achieve a professional look.

iv. Translation

Depending on the audience, advocates may also want to consider whether they will want to have all or part of the report translated. Translation can take considerable time, as well as resources. If a report will need to be translated into another language, advocates need to build adequate time for that into their publication schedule. Advocates will also need to consider whether they will use professional or volunteer translators. Professional translation can be costly, so will need to be included in the planning for the project budget. Volunteers, on the other hand, may take a longer time to complete the project. They may also require an additional editorial review for accuracy and consistency.

If there are limitations on time or resources, advocates may want to

prioritize the translation of certain sections of the report. For example, many human rights organizations prioritize the translation of the Executive Summary and Key Recommendations sections of a report. If these sections are translated first, they can be distributed with the full version of the report in the original language.

v. Releasing Your Report to the Public

It is important to include members of the community or affected population when planning for the release of a report. Just as communicating the report findings and recommendations to lawmakers and service providers is an important part of the process, so too is conveying that information back to the participants who shared their




المغرب

التحديات المرتبطة بمواجهة العنف المنزلي وفق مقتضيات اتفاقية مناهضة التعذيب وغيره من ضروب المعاملة أو العقوبة الفاسية أو اللاإنسانية أو المهينة.

الدورة 47 للجنة مناهضة التعذيب (31 أكتوبر - 25 نونبر 2011)

تقرير مكتوب مشترك تم تسليمه نعا لقرار المجلس الاقتصادي والاجتماعي رقم 1996/31 من طرف جمعية مناصري حقوق الإنسان¹ ومنظمة Global Rights² كمنظمتين عبر حكوميتين ذات وضع استثنائي خاص بسرابة مع تحالف من المنظمات المغربية غير الحكومية³.

أ- تقديم: تواجه النساء في المغرب عنفا مستمرا ومتكررا.

في وقت يتعذر فيه تحديد مدى إنتشار ظاهرة العنف بشكل دقيق عبر المغرب، فإن الإحصائيات المتوفرة تفيد بأن العنف المنزلي يشكل ظاهرة متفشية بشكل كبير، وقد خلصت الدراسة الوطنية لسنة 2011 حول مدى تفشي ظاهرة العنف الممارس ضد النساء، أن 62,8% من النساء اللواتي تتراوح أعمارهن بين 18 و 64 سنة تعرضن لشكل من أشكال العنف خلال السنة التي سبقت إجراء البحث⁴. هذا وقد توصلت نفس الدراسة إلى أن 55% من أفعال العنف هذه، تم ارتكابها من طرف أزواج الضحايا ولم يتم التبليغ عن التعرض لأفعال العنف إلا في 3 % من حالات العنف⁵. كما أن تقرير آخر تم تقديمه في سنة 2011 صرح بأن المعنف في معظم الأحيان هو الزوج (في ثمانية حالات من أصل عشر حالات كما ورد في التقرير)⁶. بالإضافة إلى هذا، فإن هناك فيول شبه عام لظاهرة العنف المنزلي وانعدام ثقة كبيرة في منظومة العدالة مما يجعل التبليغ عن العنف استثناء وليس قاعدة. وقد توصلت الدراسة بعد استجواب العديد من الأشخاص أن 33 % منهم يعتبرون أن

Shadow report translated into Arabic

experiences in the first place.²³⁰ Advocates may want to include plans for outreach events and community meetings, creative messaging such as dramatic performances, and translated and/or simplified language versions of the report.

Advocates should carefully analyze how to maximize the impact of the report. A first step is to list the target audience for the report, including members of the community or affected population.²³¹ Advocates should next consider and evaluate all options of communicating their findings to these target audiences. There are a myriad of mechanisms advocates can use to publicize their findings, whether through report dissemination, the media, workshops, group meetings, symposia, and other outreach initiatives. At a minimum, advocates can draw upon several means already at their disposal:

- Draft a story about the report for placement in the organization's newsletter.
- Announce it on the organization's website.
- Create an urgent action advocacy piece around the report.
- Email an announcement to the organization's list of supporters and partners.
- Have copies of the reports at organizational events.
- Conduct workshops or outreach campaigns around the report's findings.

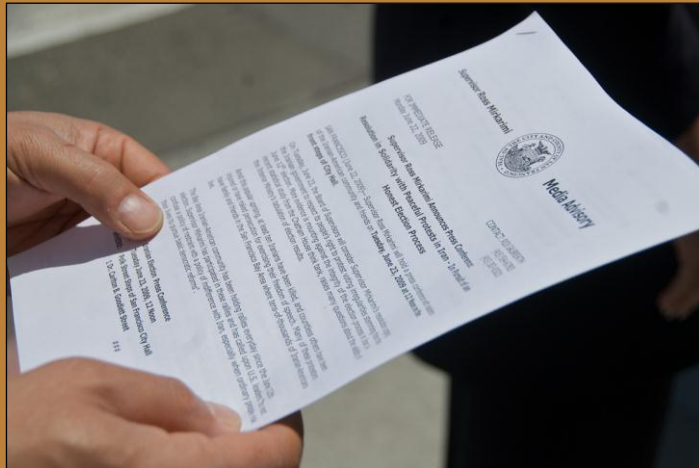
a. Media

One commonly used publicity option is the press release. Issuing a press release communicates to news outlets that the report is newsworthy. Advocates can send press releases to print media, online media, radio stations, television stations, and commercial distributors. Generally, the advocate should strive to release a succinct and comprehensive description of the event, whether it is the project's finalization or release of the report. Another option to garner publicity is to hold a press conference. A press conference provides organizations with a means of communicating information to the media in the manner chosen by the organization. See Chapter 7: Advocacy for further discussion on press releases and conferences.

Practitioner's tip: Press Releases

The following are some basic tips to follow when drafting a press release:

- Include the date and indicate whether the document is for immediate release or to be embargoed for another specific date.
- Include the name and contact information of a person for follow-up questions and comments.
- Position the organization's logo at the top, and include a 2-3 sentence basic description of the organization. Avoid including the mission statement in the description.
- If submitting the same release to multiple sections within a news source, note on the release.



²³⁰ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 200, at 221; Interview with Staff Person, Center On Housing Rights and Eviction, Nov. 10, 2010.

²³¹ Ellsberg and Heise, *Researching Violence Against Women*, *supra* note 200, at 217.

Writing style and format tips:

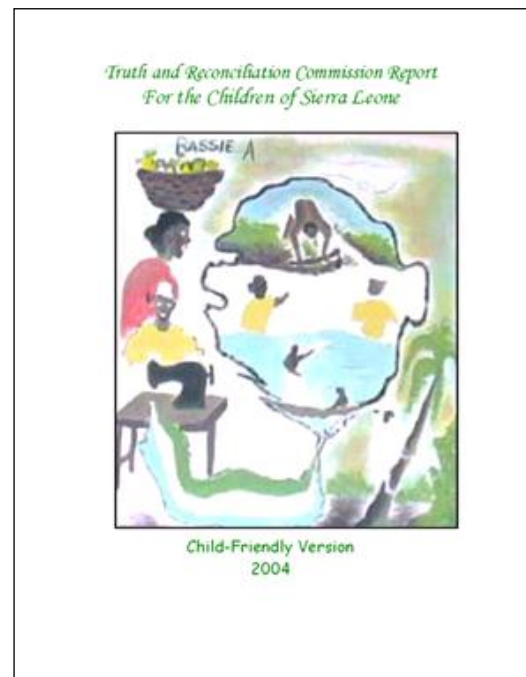
- Be concise. Keep sentences short. Aim for one and not more than two pages.
- Grab attention with the headline and within the first paragraph. The headline should summarize the newsworthy event and draw the reader into the release. The release should cover the most significant information first in the lead paragraph, then less important information toward the end of the release.
- Address the five Ws and H within the initial paragraphs: who, what, when, where, why, and how.
- Be accurate, and check all facts and spellings. Avoid jargon.
- Include one or two quotes.
- If the release is longer than one page, state “more” at the end of the page and include identifying information on subsequent pages.
- At the end of the press release, state “end,” “-30-,” or “###” to signal conclusion.
- Submit the release in a timely manner. If mailing or emailing, submit the release ten days prior to the target date; if faxing, submit the release five days before the target date.

Prioritize releases to determine which need follow-up phone calls. If calling, make the call within three days of the target date. The purpose of a follow-up call is not to check if the journalist received the release; rather, the purpose of a call is to refresh the journalist’s memory and sell the story. See Appendix E for a sample press release.

b. Formatting the Report for Different Audiences

Advocates should consider whether there would be a benefit to formatting the report to make it more accessible for specific audiences. Some of the audiences that may require unique formatting include illiterate populations and children. For example, the Truth and Reconciliation Commission of Sierra Leone published a child-friendly version of their report so that the children of Sierra Leone who participated in the Commission’s processes would be able to understand their findings and recommendations. A secondary goal was to ensure that others outside of Sierra Leone could better understand the experiences of children in Sierra Leone during the war.²³²

In addition to simplified versions of reports, advocates should consider whether there are other formats that would help them effectively share the information in the report. Some human rights organizations choose to make a video or produce a radio program that summarizes their report in order to reach audiences that may not be able to read or obtain access to the



²³² UNICEF, *Truth and Reconciliation Commission Report for the Children of Sierra Leone*, 2004. Available online at <http://www.unicef.org/infobycountry/files/TRCCF9SeptFINAL.pdf>.

full, written report. Advocates should carefully consider the potential benefits as well as the additional resources that it would take to produce the report in other formats.

Chapter 7. Advocacy



Advocacy is a set of organized actions aimed at influencing public policies, social attitudes, or political processes. Advocacy can include the following:

- Enabling and empowering people to speak for themselves;²³³
- Giving support to a policy and persuading those with power to act in support of the policy at local, national, and international levels;²³⁴
- Gaining and exercising power to influence a political action;²³⁵ and
- Organizing efforts by citizens to influence the formulation and implementation of public policies and programs by persuading and pressuring state authorities, international financial institutions, and other powerful actors.²³⁶

²³³ Equitas, *International Human Rights Training Program Resource Manual* (Equitas: International Centre for Human Rights Education, 2009), 207. Also available online at http://www.equitas.org/wp-content/uploads/2013/08/IHRT-2013-Res-Man-ENG_Cover.pdf.

²³⁴ Women, Law & Development International and Human Rights Watch Women's Rights Project, *Women's Human Rights Step by Step*. Washington, D.C.: Women, Law & Development International: 1997, 116; Global Rights: Partners for Justice. *Legislative Advocacy Resource Guide: Promoting Human Rights in Bosnia and Herzegovina* (Washington, DC: Global Rights, 2005), 4.

²³⁵ | Know Politics, "Issues," accessed Jan. 9, 2014, <http://unpan1.un.org/intradoc/groups/public/documents/unpan/unpan028058.pdf>.

Careful human rights monitoring and documentation can help identify systemic failures to protect, respect, or fulfill human rights obligations and can give rise to recommendations to solve those problems. But advocacy is required to maximize the impact of monitoring and documentation. Advocacy ensures that solutions are implemented and that the victim's right to a remedy for violations is realized. Activists undertaking human rights documentation and monitoring should consider in the project's early stages how to use the report to accomplish their advocacy goals.

This chapter provides human rights activists with a general overview of advocacy strategies, as well as guidelines on implementing specific advocacy tactics. It is meant to serve as a general overview and foundation for advocates who are new to advocacy. The chapter describes the steps involved in planning an advocacy campaign, from writing goals to evaluation. The chapter then focuses on some of the following broad human rights advocacy tactics:

- Public education;
- Media advocacy;
- Lobbying and legislative advocacy;
- Advocacy targeting businesses; and
- Social media tools for human rights advocacy.

Chapters 8 through 10 cover more complex advocacy strategies and tactics. These chapters provide information and targeted advocacy tools to help human rights advocates pursue:

- Accountability for human rights violations through domestic and international mechanisms such as criminal prosecutions, civil lawsuits, international criminal tribunals, and truth commissions;
- Advocacy at United Nations human rights mechanisms; and
- Advocacy at regional human rights mechanisms.

A. The Advocacy Process

The advocacy process involves a number of interrelated actions strategically designed to effect change at various levels. These actions might include increasing community awareness of the issue, creating constituent pressure to push for reform, improving the state response to prevent and punish human rights violations, and influencing law and policy-making.

Before initiating action, advocates for change should identify the purpose of the advocacy campaign. The purpose may range from solving a specific problem by changing a law or policy to raising general awareness about human rights violations in a specific community.

i. Defining Advocacy Goals: What is Success?

The first step in creating an advocacy strategy involves identifying the goal. A successful advocacy campaign will look different depending on the issue and the context. Activists set goals for the advocacy campaign and should define what constitutes success in their context.

The first question to answer when taking on any advocacy endeavor is “what result are you hoping to achieve?” These goals can range widely from simply raising awareness of an issue, to establishing the organization as an information resource in a particular area, to actively passing or blocking pieces of legislation. Defining clear goals early in the process is important. If another organization unexpectedly wants to weigh in or offer changes to the proposal, for instance, it is helpful to be able to refer back to an initial goal in order to stay focused. In fact, being

²³⁶ Washington Office on Latin America, *Manual for Facilitators of Advocacy Training Sessions* (2001), 12. Also available online at http://www.wola.org/sites/default/files/downloadable/Advocacy%20Training/past/manual_complete.pdf.

aware of other positions (especially those in opposition to your interests) will be key in defining what is achievable.

After setting goals for the agenda, the advocate should also determine specific intermediate benchmarks to chart any progress made. The practical reality is that human rights advocacy is a long-term process of social and political change. A goal is a statement of the change one wants to see as a result of advocacy efforts. When developing the goal, advocates should ask two key questions: Will achievement of the goal actually affect the identified human rights violations or abuses? What unintended consequences might result?

An advocacy goal statement should do the following:

- Relate back to the human rights monitoring mandate;
- Reflect the findings from the documentation phase;
- Be developed in collaboration with partners and other stakeholders; and
- Express desired change in terms of human rights language.

ii. Developing an Advocacy Strategy

After the goal is established, the human rights advocate should design the strategy for achieving it. Advocates should ask: What needs to change to ensure human rights are protected? Who has the power to make that change happen? What capacity is lacking that will make that change possible? Each step of the strategy will draw on available tactics, such as those described later in this chapter.

Step 1: Identify what needs to change to remedy the human rights violation or abuse.

The findings of the human rights documentation and monitoring should identify why the human rights violation or abuse is happening. Human rights issues are rarely simple and advocates should take time when developing their advocacy strategy to map the various causes of the human rights violation or abuse. Consider the immediate causes; the legal and economic causes; and the root societal, cultural, and political causes. Keep in mind that all may need to be addressed before the human rights violation can be ended and that one problem may need to be solved before others can be corrected.

Step 2: Identify who has the power to fix the problem. Effective advocacy relies on clear identification of the responsible authority—the person or institution with the decision-making power and authority to make the needed change, often referred to as the “target.”

Step 3: Identify the obstacles that prevent the target from fulfilling their duty to respect, protect, or fulfill the human rights. Telling someone they are failing in their obligation without also acknowledging that they may lack the capacity to succeed can lead to frustration. “Capacity” includes:

- **Obligation:** the legal and moral duty to act. What should the responsible authority do to end the human rights violation? What legal standards define that obligation? What legal standards are missing?



- **Motivation:** the will to act. Why is the responsible authority failing to fulfill the obligations? What or who can hold them accountable?
- **Authority:** the power to act. Does the responsible authority have the power to carry out their obligations? Is action by the responsible authority socially or legally acceptable?
- **Resources:** the people, infrastructure, and money to act. Does the responsible authority have the necessary human, organizational, and financial resources to meet the obligation? What is missing or needed?

While the recommendations arising out of the monitoring and documentation provide a roadmap for what needs to be done, each recommendation may require a specific strategy. Some recommendations may require a phased approach to be most effectively implemented. Some changes may need to occur before others can be put into place. Advocates should identify the necessary first steps to facilitate progress to the next phase. For example, an organization that works on minority rights might define success in the first phase of advocacy as raising awareness in the international community about the human rights abuses experienced by an ethnic minority. Later in the advocacy process, success might mean passing legislation to protect the rights of that minority group.

Creating objectives—statements that define the necessary steps to meet the goal—will provide direction for all team members and can be used as markers of success. Amnesty International recommends that objectives be “SMART: specific, measurable, achievable, relevant, and time-bound.”²³⁷

iii. Leadership and Organization

When structuring an advocacy effort, activists should take into account capacity and expertise, relationships that can be leveraged or might be threatened, and the mission of the organization. In some cases, the same group that undertook the monitoring and documentation may take the lead on advocacy. In other cases, advocacy is best led by others. Questions activists should ask themselves when deciding on leadership structure include the following:

- Is the implementation effort best led by a single organization?
- Is a coalition needed to build support and exercise the needed power?
- What natural or new alliances can be fostered?

An organization should evaluate its capacity to carry out a specific strategy. Organizations should evaluate their resources, staffing, experience, and skills to determine advocacy strategies that are feasible. For example, organizations seeking to change public policy and laws affecting victims might assess factors such as the following:

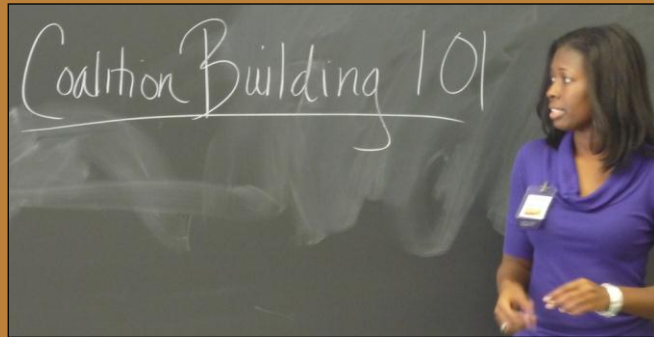
- Ability to interact constructively with the government (in the country of origin and/or country of residence);
- Willingness and commitment to coalition-building with other groups;
- Knowledge of the functioning of judicial, legislative, and executive branches;
- In-depth understanding of the political context;
- Access to research and information and the capacity to utilize it to inform policy-making;
- Clearly defined and agreed upon roles and responsibilities of individuals and organizations involved; and
- Human and financial resources to accomplish the advocacy goal.²³⁸

²³⁷ Amnesty International, *Making Rights a Reality: Campaigning to Stop Violence Against Women* (London: Amnesty International Publications, 2004), 11–12; Lisa VeneKlasen and Valerie Miller, “Planning Moment #5: Mapping Advocacy Strategies,” in *A New Weave of Power, People & Politics: The Action Guide for Advocacy and Citizen Participation* (Sterling, VA: Stylus Publishing, 2002), 198. Also available online at <http://www.justassociates.org/chap10%20mapping%20strategies.pdf>.

²³⁸ Washington Office on Latin America. *Manual for Facilitators of Advocacy Training Sessions*, *supra* note 236, at 15–17.

Coalition Building

Coalition building is “the ongoing process of cultivating and maintaining relationships with a diverse network of individuals and organizations who share a common set of principles and values.”²³⁹ “In addition to sharing a common set of values, a coalition will often work together towards a common goal or to execute a specific campaign.”²⁴⁰ Coalition



building can happen at the local, national, regional and global levels. Because organizations bring different strengths and constituencies, working in coalition can be extremely effective and important, especially when there are broad goals such as legislative or policy changes. A crucial aspect of coalition building is choosing a unifying issue or issues and working together to define clear goals.²⁴¹

Many diaspora organizations choose to increase their impact by working in coalition with other civil society organizations, either in the country of origin, country of residence, or both. Diaspora communities may already be working through Mutual Assistance Associations (MAAs) to provide services and support to refugees to help them adjust to life in a new country. Some MAAs work in coalition to achieve larger policy goals. For example, the Hmong American Partnership is a MAA whose subsidiary Hmong National Development works on policy advocacy (including the rights of Hmong in other countries) and civic engagement in coalition with the National Coalition of Asian Pacific Americans.²⁴²

The success of advocacy depends in large part on those involved in both formal and informal leadership positions. It is important to select an individual or two who have a passion for the issue and the organizational skills to accomplish the goal as the formal leaders. At the same time, the formal leaders should recognize that other leaders will emerge from within the coalition and stakeholder groups, and that those leaders should be encouraged and supported in their work. The following leadership qualities should be sought:

- Ability to identify and initiate advocacy effort;
- Ability to inspire and attract interest;
- Ability to manage process; and
- Ability to mobilize support.²⁴³

Alliances are critical to successful advocacy. While alliances can be challenging to identify and maintain, they build power, expand capacity, and help advocates work on the various direct, systemic, and root causes of the human rights violation at issue.

²³⁹ Children’s National, “Reaching Out: A Guide to Effective Coalition Building,” accessed Jan. 23, 2014, http://www.childrensnational.org/files/PDF/EMSC/PubRes/Reaching_Out_-_Effective_Coalition_Building.pdf; Scholars at Risk Network, “Coalition-building and Networking,” accessed Jan. 17, 2013, http://scholarsatrisk.nyu.edu/Workshop/d_strategy_coalition.php.

²⁴⁰ Scholars at Risk Network, “Coalition-building and Networking,” *supra* note 239 (internal quotation marks omitted).

²⁴¹ See CoalitionsWork, “Coalitions Work Tools,” accessed Jan. 23, 2014, <http://coalitionswork.com/resources/tools/>.

²⁴² See Hmong National Development, “Advocacy & Civic Engagement,” accessed Jan. 23, 2014, <http://www.hndinc.org/advocacy.php>.

²⁴³ The Virtual Knowledge Centre to End Violence Against Women and Girls, “Developing an Advocacy Strategy,” accessed Jan. 21, 2014, <http://www.endvawnow.org/en/articles/104-developing-an-advocacy-strategy.html>.

General Tactics for Increasing Influence

- Grow support. Alliances, including connections with influential persons, can be invaluable for an organization engaging in legislative advocacy.²⁴⁴ If a legislator knows that an organization has strong connections and alliances, he or she may be more likely to seriously consider the group's perspective.
- Have a concrete understanding of the "target" political system.²⁴⁵
- Urge others to write and advocate for the same position. Building a unified front as an organization will ensure the legislator knows who and what he or she is supporting. If the organization is not recognized as representative in the community, a legislator will be less likely to support it for fear of being accused of "naïveté, cynicism, or playing favorites."²⁴⁶
- Use all communication platforms available to support the goal and as part of the effort. Platforms include social media, op-eds, diaspora media, and pitches to traditional media.
- Take the long view. Success may not be achieved (or achievable) in one legislative cycle.
- People who are most directly affected by the policy should be part of the messaging. For instance, the victims of human rights abuses can provide the most compelling testimony as to why change is needed to end the abuses.

Receiving endorsements and creating a stakeholder coalition around the issue is a sign of strength, which is often useful if or when opposition to the bill is raised. An effective tactic for achieving this goal is to gather public support for the position from other groups, associations, or influential individuals. Using a human rights framework in messaging can help bring additional members to a coalition because it frames the issue as one of broad concern to all people, not as a specific issue relevant only to members of a particular diaspora group. Being able to show that the proposal is supported by stakeholders other than the organization is important—it is good for the organization to have a meeting with a legislator about its issue, but it is great to have many other groups contact or meet with that same legislator to echo the same position.

Finally, it is important for a coalition to have regular meetings and continuous information-sharing. It is damaging to any coalition effort when members of the coalition, either because of lack of leadership or poor or inadequate communication strategies, do not act in a coordinated manner and with a singular message. Internal struggles acted out in public are damaging to a coalition, to its members, and to the relationship with policymakers.

At times, leaders may emerge whose goals are not in line with the overall advocacy strategy. When this occurs, it is important to discuss the diverging goals in private rather than in front of the target audience of the advocacy.

iv. Framing and Carrying the Message

A clear and cohesive message is invaluable when advocating for a cause. Not only will it provide decision-makers a clear point of focus, it will help keep staff, volunteers, and allies focused on the goal before them. If and when advocates are working within a coalition, it is especially important for everyone to use the same message.

²⁴⁴ Kathleen Newland, Migration Policy Institute, *Voice After Exit: Diaspora Advocacy 2* (2010). Also available online at <http://www.migrationpolicy.org/pubs/diasporas-advocacy.pdf>.

²⁴⁵ Ibid.

²⁴⁶ Ibid.

Advocates should remember that the initial advocacy goal, if written using a human rights framework, can serve as a great starting point for a powerful message.

Advocates should craft a message that resonates with the target audience of the advocacy effort.²⁴⁷ There is no one-size-fits-all message, and activists should consider what will motivate the target, i.e. the person or entity with the power to make the desired change. A well-written goal statement should be readily adaptable into a human rights-based message. (See Chapter 6: Documentation for tips on using neutral, objective, and non-adversarial language and tone.)

Advocates also should consider how to carry their message to the target. The kind of communication that will be most effective will be different for each situation. Is this a case that requires change of societal norms and attitudes? Or is this a case of correcting how a government agency interprets an administrative rule? Will that government agency be most swayed by the political process or by litigation?

Advocates should also consider how their messaging impacts the bigger movement or environment in which their campaign operates. For example, immigrant rights activists in the United States often used the message “we are not criminals” when talking about injustice in the immigration enforcement system. While this message had some short-term value in drawing attention to the fact that people in the United States without immigration status were not violating criminal laws, the message severely undermined the immigrant rights movement’s credibility with potential allies in the criminal justice system who were working on some of the same issues.

Advocates can often achieve clarity in message development by adopting a simple problem/solution framework. Messaging about the “problem” should point to systemic failures and institutional failures as much as possible. Messaging about the “solution” should highlight as many beneficiaries as possible and should be based on shared values or principles that are fundamental to society (or to that level of government). Advocates should never underestimate the power of personal stories to highlight systemic problems and to illustrate a proposed solution.

v. Mobilization and Action

The mobilization and action phase is the outcome of effective goal and objective development and is linked with communication and education. It requires mobilizing constituents, the public, and stakeholders to act on the issue. Consider who the responsible authority will listen and respond to when deciding whom to mobilize. Will the target respond to widespread public pressure or will a private word from an influential leader be more effective? Design the mobilization strategy to get the target to act.

During this phase, the following activities may occur:

- Recruiting advocacy volunteers;
- Building a coalition of partner organizations and institutions;

Practitioner’s tip: Take into account how the potential message can undermine or strengthen ongoing or future efforts. For example, using a public shaming campaign may motivate public constituents and build pressure, but it may alienate lawmakers, making future advocacy efforts more difficult. Activists need not compromise their message in light of these considerations, but should explore ways to overcome these challenges. They may want to designate an advocacy partner as the visible messenger who interfaces with the public and another partner to interact with the legislators.

²⁴⁷ American Library Association, “Advocacy University,” accessed Jan. 21, 2014, <http://www.ala.org/advocacy/advocacy-university> (for resources on crafting advocacy messages); Alliance for Justice, “Bolder Advocacy,” <http://www.afj.org/our-work/issues/bolder-advocacy>.

- Educating staff, volunteers, and stakeholders about the goals, objectives, and tactics of the advocacy plan;
- Carrying out the advocacy strategy and plan;
- Taking legal and political actions (in the country of origin, country of residence, and/or international community);
- Taking action with interested and affected groups to secure change;
- Monitoring and evaluating the process; and
- Continually reexamining and adapting the advocacy plan and messaging.

vi. Measurement of Progress toward Goal and Achievement of Objectives

Any advocacy plan should include the ongoing measurement of progress toward the goals and objectives. Evaluation, both throughout the effort and at its conclusion, helps the advocate understand what is working and identify when adaptation is needed.²⁴⁸ Regular collection of evaluation information should be focused on producing useful feedback on the effectiveness of the advocacy effort. Evaluation need not focus exclusively on the question of whether the human rights violation has been “fixed.”

Ideally, the evaluation plan mirrors the overall advocacy plan and reflects the goals and objectives defined at the outset. The evaluation plan helps keep track of the steps taken toward the ultimate goal. The Harvard Family Research Project suggests broad categories for evaluation measures.²⁴⁹ Evaluations can measure the impacts achieved, such as the creation of more programs or better services. They can also measure the policy goals accomplished, such as the passage or blocking of proposed legislation. Finally, evaluations can measure the outputs and activities undertaken during the effort, such as the number of members recruited to a coalition or sign-on letter.

B. Types of Advocacy

Advocacy can take many forms. This section provides more detailed information to help activists decide which advocacy tactics will best meet a particular goal. The advocacy tactics described here start out with relatively familiar and accessible strategies, such as conducting public presentations, and move on to less familiar strategies, such as lobbying lawmakers and engaging in shareholder activism.

Choosing the advocacy tactics relates directly to the chosen mobilization strategy. Advocates must choose the tactics that will most likely result in the target taking the desired action. Wasting time on a tactic that is easy to do but unlikely to result in change depletes time, energy, and money.

i. Public Education

Education involves disseminating information to increase awareness and ultimately stimulate action. Advocates can present public education focused on human rights issues or human rights education in hundreds of different ways. Many organizations begin by doing public presentations on the findings that emerged from their monitoring and documentation work. This approach is one of the simplest means of public education. Other strategies may include the following:

- Poster/billboard campaigns;
- Conferences;
- Public demonstrations and protests;

²⁴⁸ Julie Coffman, Harvard Family Research Project, *Focusing, Mapping, Prioritizing, Designing: A User's Guide to Advocacy Evaluation Planning* (Fall 2009), 3. Also available online at <http://www.hfrp.org/evaluation/publications-resources/a-user-s-guide-to-advocacy-evaluation-planning>.

²⁴⁹ *Ibid.*, 17–20.

- Small group meetings with stakeholders;
- Large community meetings;
- Staging public hearings in which victims can testify about their experiences;
- Creating books or pamphlets documenting victim experiences;
- Staging public tribunals or mock trials, in which evidence is presented and violators are symbolically held accountable;
- Intergroup dialogue (led by experienced facilitators);
- Working with local movie theaters or libraries to host film screenings of documentaries or human rights-related films and arrange post-film talkbacks;
- Hosting a photograph or art exhibit at a public venue, such as a gallery or coffee house;
- Working with a local museum to create and lead human rights-themed art tours;
- Starting a book club with a human rights theme;
- Social media;
- Creating a blog on a human rights issue;
- Starting a Twitter account about the issue;
- Working with local music venues to host events with cultural and human rights themes;
- Showcasing original poetry, songs, stories, or essays written by victims of human rights abuses;
- Creating games and other interactive tools to teach about an issue; and
- Including human rights information on an organization's website.



Regardless of strategy, the key to success is knowing the audience and keeping in mind the following guidelines:

- **Not all participants have prior human rights knowledge.** Do not assume participants have any prior knowledge about the human rights topic at issue. Try to relate to what human rights knowledge the participants may already have, and what they may already know about the human rights topic.
- **Do not focus solely on the violations of human rights.** Highlight the values, beliefs, and attitudes that serve as the building blocks of human rights. Show how human rights law establishes international standards and norms rather than upsetting and alarming participants by focusing only on human rights violations that they may not be in a position to address.
- **Connect participants' experiences to the principles discussed.** Create opportunities for participants to relate their personal experiences to the human rights issues and principles explored.
- **Highlight at least one human rights document.** Engage participants in an activity or exercise that involves a human rights treaty or other description of standards, such as the Universal Declaration of Human Rights. Give participants a copy, if possible. Participants should understand the international law that defines and guarantees the human rights being examined.

- **Provide opportunities to take action.** Participants should be provided with opportunities either during or after the educational event to take action. This strategy emphasizes the importance of individual responsibility for human rights.
- **Give participants something to read, share, and take away.** Provide participants with fact sheets, reading lists, local organizations involved with the topic, or websites for more information on particular human rights issues.²⁵⁰
- **Do no harm.** Consider the consequences to those you mobilize.

Practitioner's tip: The Advocates for Human Rights and several other organizations produce toolkits and other educational materials free of charge on various human rights issues. Toolkits on general human rights: the rights of women, migrants, persons with disabilities, and indigenous peoples; the death penalty; and the rights to food, housing, health care, and education are available from The Advocates for Human Rights at www.advrightrights.org. Each toolkit contains multiple components to educate and engage people, including a fact sheet, take action guide, resource list, lesson plans, PowerPoint presentation, and quiz. In addition, advocates can find numerous educational materials that address human rights issues. Several organizations have sample curricula and lesson plans available online, including the following organizations:

- The Advocates for Human Rights (www.advrightrights.org);
- Amnesty International (www.amnesty.org/en/human-rights-education/resources);
- Human Rights Education Associates (www.hrea.org);
- Human Rights Resource Center (www1.umn.edu/humanrts/edumat/);
- Human Rights Education Info (www.humanrightseducation.info/); and
- United Nations (www.ohchr.org/EN/PublicationsResources/Pages/Publications.aspx).

ii. Media Advocacy

Media advocacy is the process by which an organization presents information to the news media to affect public opinion on an issue and to address policymakers.²⁵¹ The news media may be the most effective outlet for human rights activists to reach a broad audience and potentially influence those individuals responsible for public policy. Effective media advocacy requires a carefully planned strategy, thoughtful messaging, an understanding of the relevant media outlets, and an awareness of which media tools will best suit the strategy.

Prior to any communication with the media, the human rights advocate should develop a media strategy. For each issue, the



²⁵⁰ Nancy Flowers, University of Minnesota, Human Rights Resource Center, *The Human Rights Education Handbook: Effective Practices for Learning, Action and Change* (2000), Part 5, Section B. Also available online at <http://www1.umn.edu/humanrts/edumat/hreduseries/hrhandbook/part5A.html>.

²⁵¹ UCLA Center for Health Policy Research, *Media Advocacy: To Advance Public Health Policy Workshop Workbook* (Los Angeles: Regents of the University of California, 2002), 13. Also available online at http://www.healthpolicy.ucla.edu/programs/health-data/trainings/Documents/tw_media2.pdf.

advocate should isolate a specific problem to address, provide a set of possible solutions to that problem, suggest what steps can be taken to achieve those solutions, and identify the people who can take those steps.

In addition, certain organizational steps can facilitate effective media advocacy, such as designating a spokesperson. A spokesperson is an individual within an organization selected to communicate with the media. The fewer people an organization permits to communicate directly with media, the more likely its message will be presented consistently and clearly.²⁵²

a. Strategy and Framing

“Framing” is the act of arranging facts and opinions to tell a story from a certain viewpoint. An advocate who artfully and thoughtfully presents an issue will be more likely to attract media attention (“framing for access”) and to guide the media’s approach to the issue (“framing for content”).²⁵³

“Framing for access” is the process of determining which element of a story will appeal to media. In determining what stories to cover, journalists look for certain elements. Possible hooks include a striking conflict or controversy, a local angle, or eye-catching photographs or images.²⁵⁴ Be careful to avoid sensationalizing a human rights issue or breaching the principles of do no harm and confidentiality with stories and photos.

Practitioner’s tip: The Opportunity Agenda has designed a simple human rights messaging formula called VPSA: Values, Problem, Solution, and Action.

Value: the human rights message.

Problem: the human rights violation or abuse.

Solution: the change being sought.

Action: the steps to address the violation.



“Framing for content” is the process of shaping facts and opinions into a story told from a particular perspective. Effective framing for content can transform a set of circumstances into a compelling story that demonstrates the need for policy change.²⁵⁵ Advocates who frame the content of a story effectively can promote their chances of seeing their viewpoint reflected in the media coverage.

b. Familiarity with Relevant Media Outlets

The more advocates understand relevant media outlets, the more fruitful their interactions with media are likely to be.²⁵⁶ Different broadcasts, newspapers, and online media outlets approach stories differently and target specific audiences, while certain reporters are more likely to take an interest in certain issues.

A contact list, which organizes the contact information of relevant producers, editors, and reporters, can be a useful tool in managing media communications. Activists can compile such information directly from a station, newspaper, or other partner organizations. Activists should keep the contact list updated by checking the information as often as possible.

²⁵² American Public Health Association (APHA), *APHA Media Advocacy Manual* (Washington, D.C.: APHA), 5. Also available online at http://www.apha.org/NR/rdonlyres/A5A9C4ED-1C0C-4D0C-A56C-C33DEC7F5A49/0/Media_Advocacy_Manual.pdf.

²⁵³ UCLA Center for Health Policy Research, *Media Advocacy*, *supra* note 251, at 13.

²⁵⁴ *Ibid.*, 13–14.

²⁵⁵ *Ibid.*, 14–15.

²⁵⁶ American Public Health Association, *APHA Media Advocacy Manual*, *supra* note 252, at 5.

c. Using Diaspora Media

Diaspora communities around the world have established new media networks and institutions for producing and distributing unique programming for their target diaspora audience. Diaspora community media can be used not only to influence policy, but also to inform community members about human rights issues and galvanize them to take action.

Diaspora community media exists in a wide variety of media formats. Some diaspora community organizations produce regular print newspapers or magazines to provide news (often in the native language) to members of the diaspora. For example, the National Herald newspaper is printed in both English and Greek.²⁵⁷ Other diaspora media outlets use radio or television broadcasts to reach their diaspora audiences. Hmong TV Network in Fresno, California has 24-hour programming on current events, culture, and entertainment relevant to the Hmong community.²⁵⁸ African Diaspora Today (Chicago, IL)²⁵⁹ and African Roots Connection (KMOJ 89.9 in Minneapolis, MN)²⁶⁰ are both weekly radio programs that address a wide variety of subjects and issues which affect African diaspora communities.

Online media is, however, perhaps the most common form of diaspora community media. Some websites, like AllAfrica.com, aggregate, produce and distribute news from a large number of countries. Other online media sources such as The Liberian Journal²⁶¹ provide news and opinion articles for a specific diaspora community.

While activists should approach outreach to diaspora media outlets in much the same way that they approach mainstream media outlets, they may find that diaspora media outlets are easier to connect with and more willing to cover a story because of pre-existing audience interest in the issue. Human rights advocates should, however, go through the process of developing their media strategy and framing before conducting outreach to any diaspora media outlets.

d. Traditional Media Tools²⁶²

- **Press release:** Grab attention for the human rights issue within the headline and first paragraph. The headline should summarize the newsworthy event/issue and draw the reader into the release. The release should cover the most significant information first in the lead paragraph, and less important information toward the end of the release. For a sample press release, see Appendix E.
- **Press conference:** Think carefully about the objectives—have a newsworthy reason to hold a press conference for reporters to hear the message in person rather than through a press release.
- **Letter to the editor:** Write concise letters to the editor that link human rights to local issues. Note that letters that refer to stories the newspaper or magazine has already published are more likely to be selected.
- **Op-eds:** Draft an opinion piece to provide in-depth commentary on an issue. Check the publication's guidelines for commentaries and submission information. It may also be possible to speak with the editorial staff to discuss an issue and clarify expectations.

²⁵⁷ The National Herald, accessed Jan. 21, 2014, <http://www.thenationalherald.com/>.

²⁵⁸ 32.6 Hmong TV Network, accessed Jan. 21, 2014, <http://www.hmongtvnetwork.com>.

²⁵⁹ African Diaspora Today, "About," accessed Jan. 8, 2014, <http://africandiasporatoday.com/>.

²⁶⁰ Facebook, "African Roots Connection," accessed Jan. 8, 2014, https://www.facebook.com/pages/African-Roots-Connection/24005089977?sk=page_map.

²⁶¹ The Liberian Journal, accessed Jan. 8, 2014, www.theliberianjournal.com.

²⁶² The Advocates for Human Rights, *A Practitioner's Guide to Human Rights Monitoring, Documentation, and Advocacy* (Jan. 2011), 91–92. Also available online at http://www.theadvocatesforhumanrights.org/uploads/final_report_3.pdf.

- **Editorial board meeting:** Try to win the support of a newspaper’s editorial board on a human rights issue. Request a meeting with editorial staff, design an effective presentation in line with the overall media strategy, and provide written information for the board members to review.
- **Interviews:** To prepare to give a radio or television interview, activists should familiarize themselves with the format and style of the program for which the interview is conducted. In addition to presenting their own viewpoint, activists should also prepare to counter opposing arguments in a professional and credible manner.

Practitioner’s Tips on Press Conferences:

The following tips are a useful guide in holding a press conference.

1. Determine the goals of the press conference. Activists should think carefully about their objectives: is the press conference to publicize the project’s findings? Demonstrate clout? Empower constituents and/or the affected group? Garner public support and involvement? Communicate a point to stakeholders? Raise international awareness? Activists should have a newsworthy reason to hold a press conference for reporters to hear the message in person rather than through a press release.

2. Determine the message. Identify what is sought from the target audience and tailor the message accordingly. Also, advocates should ensure that all speakers understand their roles and what each person’s message is to avoid repetition.

3. Select a venue, date, and time. The location for the press conference will depend on the organization’s needs. When deciding on a venue, activists should consider factors such as symbolism, the best angles, backdrop, and technical requirements, such as lighting, electrical outlets, and sound systems. In addition, activists should think about the venue’s accessibility, including location and parking availability. Consider whether there is an overflow or a smaller space nearby in case turnout is not as expected. When selecting a date, activists should consider deadlines for journalists and rival events, and bear in mind that mid-week days are generally better for obtaining media coverage.



4. Send invitations. Activists should draft a press advisory to invite both media personnel, as well as partners, allies and sympathetic officials. They should use their list of reporters or begin to build a list by calling newspaper editors—ideally in the morning—to learn who would be the appropriate reporter. Activists should also seek to build relationships with any local reporters from Agence France Presse, Al Jazeera, the Associated Press, the BBC, or Reuters, for example, and call them once they have the basic conference information to request they add the conference to the daybook. Establish a realistic goal for the number of people to expect. Recruiting volunteers to help conduct outreach is one strategy to maximize turnout. If the news outlet is unlikely to send a reporter, call the photo desk to check whether they can assign a photographer to cover the event. Invitations should be sent generally between two to

seven days before the news conference, followed up by reminder phone calls before the conference.

5. Prepare materials. Advocates should prepare a press packet, including background material, the press statement, facts sheets, copies of the report, and visuals, to hand out at the event. They should also send the press packet to journalists who did not attend the conference. They should prepare visuals to depict the message at the conference, such as charts, signs, photos, graphics, maps, banners, and props. Advocates can prepare a take action activity for attendees during the conference. Finally, advocates should prepare the statements that will be made at the press conference.

6. Prepare everyone for their roles. Activists should aim to have one to two people speak for no more than 10 to 15 minutes each. Pre-planning and trial runs are a good way to ensure that speeches are succinct, understandable, and non-repetitive. Activists should also select and prepare a facilitator or host to welcome reporters, maintain control, and keep the conference focused on the topic. Prepare and have a master list of speakers' contact information.

7. Conduct the press conference. Allow sufficient time to set up the venue and be prepared to receive reporters 15 minutes before the start time. Greet reporters as they arrive and ask them to sign in with their contact information. Take high-quality photographs and distribute them to print journalists immediately after the conference. After the statements, take questions from the audience. Some considerations for creating an effective impression:

- Television: Pay attention to how to portray the visual image. Place spokespersons and audience near each other where they can all be seen within the frame. Strategically seating audience members, such as affected populations, in view of the camera is another strategy. Use visuals that have a strong impact and clearly communicate the message.
- Audio: Take steps to ensure that the sound is clear by having only one person speak at a time to the media and using another area separate from any noisy action to speak to the media.
- Print journalism: Be credible in communications to the press and refrain from discussing topics that are not relevant or that the organization is unprepared to address. Use pithy and high-impact quotes and distribute press packets to the reporters. Immediately after the event, email photographs of the event to print and radio journalists in attendance.

iii. Government-Focused Advocacy and Lobbying

A third kind of advocacy is lobbying, or advocacy directly targeting lawmakers and other government officials with the goal of changing laws and government policy. Legal reform is often a very real and desired outcome of human rights monitoring. For diaspora groups, lobbying may target the government of the country of origin or ancestry, or the government of the country where the diaspora community is based.

a. Lobbying the Government of the Country of Origin

Each country's government and laws are different, and advocates should consult with organizations on the ground in their country of origin to develop a lobbying strategy that is appropriate for that country's political context and legal system.

Embassies and High Commissions

The most natural starting point for people living outside their country of origin or ancestry who want to lobby for law or policy change in that country is the country's embassy, high commission, or other diplomatic post in the country where the person lives. The embassy or high commission may offer different services and levels of access to consular officials, depending on whether the individual is a citizen of the country. Individuals who have fled persecution in their country of origin should consider any safety concerns before reaching out to a local embassy.

Diaspora Offices and Ministries

Diaspora communities can often leverage government ministries or offices in their country of origin that conduct diaspora outreach. These offices may be housed within the government's Ministry of Foreign Affairs, or they may be free-standing ministries or committees of parliament. Appendix F contains a table of these diaspora offices, along with any available contact information. Diaspora groups seeking to influence laws and policies in their country of origin should consider including the relevant diaspora office in their lobbying efforts.

Diaspora voting



Imen, a Tunisian PhD candidate, cast her first vote in a Tunisian election while living in France in 2011.



Website of the Office of the State Minister of Georgia for Diaspora Issues

Voting can be a direct way to influence government and promote legal reform. One common subject of diaspora advocacy targeting the country of origin focuses on voting rights for the diaspora. For a citizen outside the country, attempting to assert the right to vote is not always straightforward. Diasporans can confront issues of dual citizenship and voter eligibility.

(i) Dual Citizenship

A person has dual citizenship if he or she has citizenship with more than one country at the same time. As such, he or she is subject to the laws of both countries and should verify that an action with respect to one country (such as voting) does not jeopardize citizenship in the other country.

According to U.S. law, voting in a foreign country is not grounds to revoke citizenship.²⁶³ In order to revoke citizenship, the government must prove that a citizen committed an expatriating act—which voting in a foreign country is not—and intended to surrender U.S. citizenship.²⁶⁴

Other countries, however, might view the act of voting in another country differently. Diasporans with dual citizenship who want to establish and exercise voting rights in both countries of citizenship should verify that neither country of citizenship considers voting in a foreign country grounds for loss of citizenship.

(ii) Voting

Voter eligibility, registration, and the voting process vary by country. Countries typically determine eligibility based on citizenship, age, and sometimes residency.

Governments do not ordinarily have a legal obligation to extend the right to vote for people who are located in other countries.²⁶⁵ To verify whether a particular country allows absentee voting for citizens residing abroad, consult the country's voting laws or online resources.

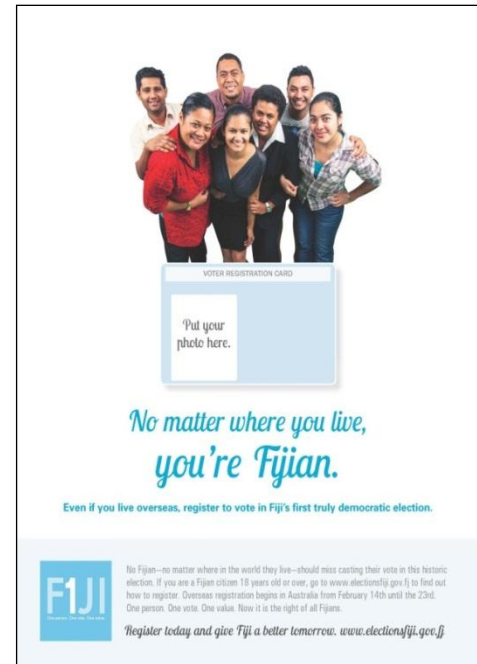


A Malian refugee votes in Niger in July 2013

For overviews of voting laws by country, along with commentary, consult the ACE Electoral Knowledge Network: <http://aceproject.org/>.

Restrictions on voter eligibility can passively restrict voting. For the 1996 Bosnia and Herzegovina election, many citizens were displaced and living outside the country. Voters were eligible to vote only in their municipality of residence as determined by the 1991 census. Anyone who was displaced or had moved could vote in his or her current municipality of residence or a “future municipality” if the person provided documentation. In effect, this law restricted out-of-country voters to those who could provide proof of intention to return, and the government strictly enforced that requirement.²⁶⁶

Registration and voting typically takes place at an embassy, high commission, or consulate. In some cases these procedures can become a financial burden, requiring non-resident citizens to make multiple trips to the embassy to register in advance and then return on Election Day.²⁶⁷



Advertisement in a Fiji Airlines in-flight magazine

²⁶³ The Nationality Act, Pub. L. No. 76–853 § 401(e) (repealed 1978); *Afroyim v. Rusk*, 378 U.S. 253 (1967).

²⁶⁴ *Vance v. Terrazas*, 444 U.S. 252, 261 (1980) (For a list of expatriating acts, see 8 U.S.C. § 1481 (1961)).

²⁶⁵ International Foundation for Electoral Studies, “External and Absentee Voting,” in Jeremy Grace, *Challenging the Norms and Standards of Election Administration* (2007), 35–57. Also available online at <http://www.ifes.org/Content/Publications/White-Papers/2007/Challenging-the-Norms-and-Standards-of-Election-Administration-full-text.aspx>.

²⁶⁶ International Institute for Democracy and Electoral Assistance (International IDEA), “Bosnia and Herzegovina: Post-War Trends in External Voting,” in *Voting From Abroad: The International IDEA Handbook* (2007), 163–67. Also available online at http://www.idea.int/publications/voting_from_abroad/.

²⁶⁷ International Institute for Democracy and Electoral Assistance (International IDEA), “Iraq: a Large Diaspora and Security Concerns,” in *Voting From Abroad*, *ibid.*, 168–71, 170. (During the 2005 Iraq elections, for which out of country voting was overseen by the International Organization for Migration and the Independent Election Commission of Iraq (IECI), there was a three day gap between voter registration and

Some countries allow voting by mail or situate polling places near large diaspora communities.

Governments have an obligation to protect the voting rights of internally displaced people.²⁶⁸ The International Organization for Migration (IOM) has initiated several programs related to voting rights of displaced people and has helped conduct elections for refugee populations.²⁶⁹

The International Institute for Democracy and Electoral Assistance (IDEA) published a handbook on voting from abroad: <http://www.migration4development.org/sites/m4d.emakina-eu.net/files/voting-from-abroad-the-international-idea-handbook-pdf.pdf>.

b. Engaging the Government of the Country of Residence

Advocates from diaspora communities also have the opportunity to engage the government of the country in which they live to help advance human rights in their country of origin. The goal of this lobbying may be to lift or impose sanctions on the country of origin, to enact laws supporting human rights defenders in the country of origin, to encourage the country of residence to take action in a specific case of human rights violations, or to prohibit human rights abusers from the country of origin from obtaining an entry visa, for example. Some countries have laws that bar visas for alleged perpetrators of certain categories of human rights violations. In recent years, for example, the European Union has imposed “restrictive measures” as a consequence of human rights violations in Belarus, and the U.S. Government has used visa bans as an accountability mechanism for human rights violations in Russia and India. These laws can be used by human rights activists as part of a larger advocacy agenda.

Advocates Mobilize to Bar Narendra Modi from the United States

Section 604 of the International Religious Freedom Act of 1998 renders foreign government officials ineligible for visas or admission to the United States if they have engaged in particularly severe violations of religious freedom. The act was used in 2005 to deny a visa to Narendra Modi, chief minister of the Indian state of Gujarat, on the grounds of his alleged role in religious freedom violations connected to communal violence in 2002 that left more than 1,000 (mostly Muslim) dead. When Mr. Modi’s intended visit to the United States for a conference was announced in early 2005, 41 South Asian diaspora groups came together to form the Coalition Against Genocide.²⁷⁰ The diverse coalition included organizations from a wide variety of religious backgrounds, including the Indian American Muslim Council and other diaspora organizations, the Center for Religious

SEC. 604. INADMISSIBILITY OF FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.

(a) INELIGIBILITY FOR VISAS OR ADMISSION.—Section 212(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(2)) is amended by adding at the end the following new subparagraph:

“(G) FOREIGN GOVERNMENT OFFICIALS WHO HAVE ENGAGED IN PARTICULARLY SEVERE VIOLATIONS OF RELIGIOUS FREEDOM.—Any alien who, while serving as a foreign government official, was responsible for or directly carried out, at any time during the preceding 24-month period, particularly severe violations of religious freedom, as defined in section 3 of the International Religious Freedom Act of 1998, and the spouse and children, if any, are inadmissible.”

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to aliens seeking to enter the United States on or after the date of the enactment of this Act.

polling days. The IECI decided against on-site registration to prevent fraud, even though “many Iraqis had to travel long distances to the registrations and polling centres.”)

²⁶⁸ Office of the Coordination of Humanitarian Affairs, *The Guiding Principles of Internal Displacement* (2004), Principle 22. Also available online at www.unhcr.org/43ce1cff2.html.

²⁶⁹ International Organization for Migration, accessed Jan. 8, 2014, <http://www.iom.int/>.

²⁷⁰ Zahir Janmohamed, *U.S. Evangelicals, Indian Expats Teamed Up to Push Through Modi Visa Ban*, New York Times, Dec. 5, 2013, available online at http://india.blogs.nytimes.com/2013/12/05/u-s-evangelicals-indian-expats-teamed-up-to-push-through-modi-visa-ban/?_r=0.

Freedom at the Hudson Institute, the Institute on Religion and Public Policy and the American Jewish Committee. They worked to block Modi's visa with a bipartisan group of members of Congress interested in religious freedom, who introduced House Resolution 160 condemning Mr. Modi "for his actions to incite religious persecution."²⁷¹ On March 18, 2005, the U.S. State Department denied Mr. Modi a visa.



Narendra Modi

In September 2013, India's Bharatiya Janatata party selected Modi as its candidate for upcoming elections for prime minister. Two days later, a U.S. State Department spokesperson reiterated the U.S. policy regarding Modi's visa: "There's no change in our longstanding visa policy. He is welcome to apply for a visa and await a review like any other applicant."²⁷² The Coalition Against Genocide and its member organizations again went to work on the issue. With the bipartisan support of 37 co-sponsors, House Resolution 417 was introduced in November 2013. As of December 2013, however, it was not clear

whether Modi will again apply for a visa to visit the United States or whether the International Religious Freedom Act would again be invoked to deny him entry.

Diaspora communities may also enlist the government of their country of residence to intervene in specific cases. Often the first step is to engage the elected official who represents a particular diaspora community member or an area in which many members of the diaspora community live and educate them about the issue of concern. Members of diaspora communities play an important role in informing their elected officials about issues in their home country and the ways in which the country of residence can impact human rights in that country. Elected representatives may help by raising the issue with the executive branch or with the specific government agency that can assist, meeting with the home country ambassador to raise the concern, or making a public statement to draw attention to the issue.

No matter what the issue, effective engagement of elected officials rests on relationships. Diaspora communities should consider reaching out to their elected officials to educate them about the community's country of origin and the issues of concern. In general elected officials welcome contact by their constituents, even if those individuals are not citizens of the country of residence. Individuals, informal groups, or established organizations all can build these relationships so that, when opportunities to intervene in policy decisions affecting the country of origin arise, the elected official is prepared to act.

²⁷¹ Ibid.

²⁷² Ibid.

How to Contact Legislators in the United States:

To find a Representative, go to <http://www.house.gov/representatives/find/>.

To find Senators, go to

http://www.senate.gov/general/contact_information/senators_cfm.cfm?OrderBy=state&Sort=ASC.

How to Contact Legislators by Mail:**Senators:**

The Honorable (full name)
United States Senate
(Room # & Office Building)
Washington, DC 20510

Salutation:

Dear Senator (Last Name),

Representatives:

The Honorable (full name)
United States House of Representatives
(Room # & Office Building)
Washington, DC 50515

Salutation:

Dear Representative (Last Name),

When corresponding with elected officials, keep the following tips in mind:

- Because of security protocols put in place following the 2001 terrorist attacks, all postal mail is scanned and irradiated. It can take a minimum of two weeks for mail to be received. Therefore, it is best to send correspondence electronically when possible. Members of Congress have their information on their individual websites. Consider hand delivering letters to legislators' offices if possible.
- Include your mailing address in all correspondence, including email.
- Be aware that as a matter of professional courtesy, many legislators will acknowledge, but not respond to, a message from another legislator's constituent.²⁷³

(i) Meeting with Legislators and Staff

Meeting face-to-face with legislators can be a highly effective way to lobby for an issue. Advocates should meet face-to-face whenever possible. Calling, writing, or emailing the legislator can be useful to augment such visits, and can suffice if a visit is not practicable. Several organizations have published best practices for groups advocating through personal meetings with legislators.²⁷⁴ This section provides recommendations for maximizing the impact of an advocate's meeting with a legislator.

²⁷³ United States Senate, "How to Contact Your Senator," accessed Jan. 21, 2014, http://www.senate.gov/reference/common/faq/How_to_contact_senators.htm.

²⁷⁴ This section references best practices information from the following organizations (alphabetical order):

American Academy of Physician Assistants (AAPA), (available at www.aapa.org);
American Planning Association (APA), (available at www.planning.org);
American Speech-Language Hearing Association (ASHA), (available at www.asha.org);
Association of Community College Trustees (ACCT), (available at www.acct.org);
Learning Disabilities Association of America (LDA), (available at www.ldanatl.org); and
Migration Policy Institute, (available at www.migrationpolicy.org).

Scheduling the meeting

It is best not to simply drop by legislators' offices, particularly when they are in session. Schedule an appointment with a Member of Congress no less than one month in advance.²⁷⁵ When scheduling the appointment, provide all of the following information:

- Full name of all who will attend;
- Organization;
- Issue the meeting is about; and
- Contact phone number and email.

It may be helpful to write the legislator first to schedule an appointment and then follow-up with a telephone call.²⁷⁶ Be sure to confirm the visit by letter or email soon after scheduling and call approximately one day before the meeting to verify that the meeting is still taking place and that the time and location have not changed.²⁷⁷ Legislators' schedules are often very busy, so be flexible in scheduling.²⁷⁸

The following is an example of a message to leave for a legislator: *"Hello, this is Jane Smith with the ABC Organization. I would like to make an appointment to meet with Senator Jones to discuss _____. This issue will be heard in committee in two weeks, and I would very much like to have her support. You can reach me at (123) 456-7890. Thank you very much."*

If the advocate is able to meet with a legislator when not in session, the legislator will likely have more time to fully discuss the issue, provide pertinent background materials, and answer questions. During the legislative session, legislators will have a very brief amount of time to talk, often only 10 to 20 minutes.

Be prepared to meet with staff instead of the legislator, even if the legislator meeting is confirmed.²⁷⁹ Do not see meeting with staff as a slight; it is simply a practical reality that when legislatures and Congress are in session, lawmakers have many more demands on their time. Moreover, staff members are highly respected and influential in legislators' offices, so do not reject or devalue the opportunity to meet with them.²⁸⁰ In fact, if an advocate is able to develop a positive relationship with legislative staff, staff may look to the advocate and his or her organization in the future as a valuable source of information.²⁸¹ An advocate who explains his or her expertise and leaves contact information may encourage the legislator's office to use the advocate as a resource.²⁸²

Preparing for the Meeting

An advocate should always prepare thoroughly prior to a meeting with a legislator or legislative staff. Here is a helpful checklist:

- Choose a main goal or message.²⁸³
- Know the particular issue in depth, and be familiar with other associated issues.
- Be familiar with opposing views and be ready to respond to them in a respectful manner.²⁸⁴

²⁷⁵ LDA, "Meeting With Legislators: Federal, State, or Local," accessed Jan. 8, 2014, http://www.lidaamerica.org/legislative/resources/meeting_legislators.asp.

²⁷⁶ APA, "Tips for Successful Legislative Meetings," accessed Jan. 9, 2014, <http://www.planning.org/advocacy/toolbox/legislativemeetings.htm>.

²⁷⁷ LDA, "Meeting With Legislators: Federal, State, or Local," *supra* note 275.

²⁷⁸ AAPA, "Tips for Meeting with Legislators," accessed Jan. 9, 2014,

http://www.aapa.org/uploadedFiles/content/Events/PA_Week/Resource_Items/Tips%20For%20Meeting%20With%20Legislators.pdf.

²⁷⁹ APA, "Tips for Successful Legislative Meetings," *supra* note 276.

²⁸⁰ *Ibid.*; AAPA, "Tips for Meeting with Legislators," *supra* note 278; ACCT, "How to Guarantee a Successful Meeting with Legislators," accessed Jan. 9, 2014, <http://www.acct.org/how-guarantee-successful-meeting-legislators>.

²⁸¹ APA, "Tips for Successful Legislative Meetings," *supra* note 276; AAPA, "Tips for Meeting with Legislators," *supra* note 278.

²⁸² AAPA, "Tips for Meeting with Legislators," *supra* note 278.

²⁸³ LDA, "Meeting With Legislators: Federal, State, or Local," *supra* note 275.

- Know the legislator, including his or her current stance on the issue, voting record, statements, committee assignments, and party positions.²⁸⁵
- Know what federal programs relate to the issue.²⁸⁶
- Know the community—both the legislator’s broader constituency and the community the advocate represents.²⁸⁷
- If meeting with a group, select a spokesperson and decide ahead of time who will raise which points.²⁸⁸ This division of labor will maximize the amount of information conveyed to the legislator or staff and create the impression that the group is well-organized.
- Prepare handouts and a leave-behind product. Include: (1) contact information; (2) fact sheets and stories about your issues; (3) constituent letters; and (4) any briefing materials deemed appropriate.²⁸⁹ Fact sheets and briefing materials should be no longer than one page.
- Have supporters send strong letters of support for the advocate’s position before the meeting. Consider including similar letters or statements of support in the leave-behind informational packet.²⁹⁰
- Prepare two sets of remarks, one that is approximately 15 minutes and one that is approximately 90 seconds.²⁹¹ Legislative offices are often busy places and interruptions should be anticipated. Preparing a short set of remarks will allow the advocate to get the main issues across in a coherent manner even with a major interruption to the meeting.
- Practice giving the remarks to make sure they are not too long. Solicit objective feedback from a neutral audience.

During the Meeting

To increase the effectiveness of a meeting, advocates should consider the following advice:

- Be on time. Preferably arrive early and be willing to wait for the appointment. Advocates may even be able to use the wait time to get to know the staff.
- Be prepared to begin the conversation.²⁹²
- Be prepared to give an overview of the issue(s) and support your claims. Do not assume the legislator or staff has a full understanding of the issue. At the same time, do not assume they are ignorant of the issue. For example, there is no need to give an overview of a bill if the legislator is a co-author of that bill. Advocates can simply offer to give a quick overview if any uncertainty exists with respect to the legislator’s knowledge.²⁹³
- Be positive, friendly, and brief.²⁹⁴ Stick to the main issue. Do not overstay the visit.²⁹⁵
- Avoid partisan critiques or threats.²⁹⁶
- Take notes during the meeting to create a written summary of what was said.²⁹⁷ When in a group, designate someone to take the notes.

²⁸⁴ APA, “Tips for Successful Legislative Meetings,” *supra* note 276.

²⁸⁵ APA, “Tips for Successful Legislative Meetings,” *supra* note 276; LDA, “Meeting With Legislators: Federal, State, or Local,” *supra* note 275.

²⁸⁶ ACCT, “How to Guarantee a Successful Meeting with Legislators,” *supra* note 280.

²⁸⁷ *Ibid.*

²⁸⁸ *Ibid.*

²⁸⁹ LDA, “Meeting With Legislators: Federal, State, or Local,” *supra* note 275; AAPA, “Tips for Meeting with Legislators,” *supra* note 278.

²⁹⁰ LDA, “Meeting With Legislators: Federal, State, or Local,” *supra* note 275.

²⁹¹ *Ibid.*

²⁹² *Ibid.*

²⁹³ AAPA, “Tips for Meeting with Legislators,” *supra* note 278.

²⁹⁴ ACCT, “How to Guarantee a Successful Meeting with Legislators,” *supra* note 280; AAPA, “Tips for Meeting with Legislators,” *supra* note 278.

²⁹⁵ ACCT, “How to Guarantee a Successful Meeting with Legislators,” *supra* note 280.

²⁹⁶ APA, “Tips for Successful Legislative Meetings,” *supra* note 276.

- Ask for support; it is expected at these meetings.²⁹⁸ Make a clear, actionable request that is both timely and realistic within the legislative process.²⁹⁹ Avoid making requests for generic support.³⁰⁰ If the legislator appears supportive, ask for a specific commitment; if opposed, ask her or him to keep an open mind and remain neutral.³⁰¹ Do not assume that a show of respect or concern means that the legislator agrees or supports the advocate's position; make a specific request.³⁰²
- Stay focused on the core message. Advocates should have set a narrow scope for the meeting from the outset and should stick to it.³⁰³ Remember, time is limited.
- Keep a local focus. Legislators are meeting with the advocate because he or she is a constituent, so relate the issue and position to the local community. Keeping the focus local helps humanize the issue. Local statistics and stories provided by a constituent advocate are not only compelling, but the advocate may be the only source of such information.³⁰⁴
- Prioritize the issues. Get to the most important issues first.³⁰⁵
- Ask about the legislator's priorities. Finding out goals and priorities of the legislator may open up later opportunities and possibilities to work together and build rapport.³⁰⁶
- Be responsive to questions. An advocate who does not know the answer should admit to not knowing and promise to get back to the legislative staff with the answer. Be sure to get back to them with the response.³⁰⁷
- Get and give business cards. They show interest in further communication and will make for easy reference.
- Reaffirm the intention to forward any information or material requested by the legislator.³⁰⁸ Ask how quickly the legislator needs the information.
- Ask for a photograph if the opportunity presents itself.³⁰⁹ Having a photograph helps to communicate that the advocate is proactively working on the community's behalf and is willing to help promote the legislator's work.

Outline for Meeting with a Legislator or Legislative Staff

The Learning Disabilities Association of America suggests the following format for an advocate's discussion with a legislator. It can be adapted as appropriate if the advocate is meeting with staff.³¹⁰

- Begin by introducing yourself and thanking the legislator for meeting with you. Also thank the legislator for some favorable position he or she has already taken (if there is one). This approach helps create a friendly and open climate.
- Present your message:

²⁹⁷ LDA, "Meeting With Legislators: Federal, State, or Local," *supra* note 275.

²⁹⁸ ACCT, "How to Guarantee a Successful Meeting with Legislators," *supra* note 280.

²⁹⁹ APA, "Tips for Successful Legislative Meetings," *supra* note 276.

³⁰⁰ *Ibid.*

³⁰¹ LDA, "Meeting With Legislators: Federal, State, or Local," *supra* note 275.

³⁰² APA, "Tips for Successful Legislative Meetings," *supra* note 276.

³⁰³ *Ibid.*

³⁰⁴ *Ibid.*

³⁰⁵ AAPA, "Tips for Meeting with Legislators," *supra* note 278.

³⁰⁶ ACCT, "How to Guarantee a Successful Meeting with Legislators," *supra* note 280.

³⁰⁷ LDA, "Meeting With Legislators: Federal, State, or Local," *supra* note 275.

³⁰⁸ *Ibid.*

³⁰⁹ ACCT, "How to Guarantee a Successful Meeting with Legislators," *supra* note 280.

³¹⁰ LDA, "Meeting With Legislators: Federal, State, or Local," *supra* note 275; ASHA, "How to Respond to Different Congressional Meeting Scenarios," accessed Jan. 9, 2014, <http://www.asha.org/Advocacy/grassroots/Effective-Meetings-with-Legislators/>. ASHA offers a similar guide.

- Open the discussion by framing the issue on your terms.
- Explore the issue by taking a position and identifying any relevant legislation.
- Support your position by explaining why such a measure is good public policy.
- Apply the policy to real lives by showing how the legislation affects people in the legislator's district. Anecdotal evidence of how you will be personally affected can also be very moving.
- Use a few memorable statistics to emphasize your point.
- When possible show that the issue affects the legislator's committee assignments and supports public statements she or he has made.
- Be sure to cite any significant support within the district.
- Make a specific request for legislative action. If the legislator seems supportive, ask for a commitment. If you're meeting regarding a bill, ask the legislative staff to introduce or co-sponsor it. If opposed, ask the legislator or staff to keep an open mind and remain neutral.
- Conclude by thanking the legislator for hearing your concerns.

How to Respond to Legislators and Staff

The American Speech-Language Hearing Association has developed a chart with recommendations on how to respond to legislators in certain scenarios.³¹¹

Legislator/Staff Reaction	Your Response	Other Visit Etiquette
The legislator/staff listens carefully and asks few or no questions. This is a noncommittal meeting. <i>"I will think about what you have said."</i>	This very common type of Hill meeting allows you to tell your story and express your opinions. For some meetings this is all that you will accomplish, but try to get specific feedback and commitments.	Ask questions to find out what could influence a decision. Does your legislator/staff know how this issue or legislation impacts the community in their district?
Unless your legislator works on a relevant committee—don't expect staff to know much about the issue. <i>"I'm new," and "I know very little about this particular issue."</i>	Before delving into specifics, you might need to take a step back from your original plan to ensure the staffer has a complete understanding of the issue context. Discuss what the issue is, why it's important, and whom it will impact. Staffers use the information you provide to construct memos about your discussion for the policymaker. They'll greatly appreciate the perspective you provide.	Describe the role of your organization in the community. Encourage questions—don't assume the staffer knows even basic information. <i>Try to find a personal tie between the individual you're meeting with and yourself.</i> Personalize your meeting with real life examples to help them remember you.

³¹¹ ASHA, "How to Respond to Different Congressional Meeting Scenarios," *supra* note 310.

Legislator/Staff Reaction	Your Response	Other Visit Etiquette
After introducing the legislative issue, the legislator or staffer agrees with you. “I agree.”	Use this as the gateway to secure policymaker commitment to your position, and ask them to work with legislators to secure support on issues.	Get verbal commitment from your legislator/staff if possible. Thank them for their support. Indicate that your organization will follow-up, as they’ll be excited to hear of their official support for the legislation. Offer to help promote their support, if they are open to it.
After introducing the legislative issue, the legislator or staffer disagrees with you. “That is not my position” or “I disagree.”	This rarely happens as legislators and staff do not like to disagree with their constituents. Try to understand why the legislator may not support/oppose the legislative issue so you can use this information in the future to work toward your position. If possible, discuss the consequence of his/her opposition on his/her legislative district.	Find out why there is disagreement. Determine whether the problem is the issue or politics. Agree that no bill is perfect and find out which part of the bill is a problem.

After the Meeting

- Debrief immediately.³¹² Debriefing right after the meeting when memories are fresh will help to avoid forgetting valuable aspects of the meeting. It may be helpful to go through the notes taken during the meeting to add any necessary details. Do not conduct the debriefing in or around the legislator’s office.
- Send a thank-you note as soon as possible.³¹³ Include in this note: (1) an expression of appreciation; (2) a reinforcement of the message and any verbal commitment made by the legislator or staff;³¹⁴ (3) highlights of the main points of the visit; and (4) any requested information.³¹⁵ Advocates could also consider concluding the letter with a personal story that surfaced during the meeting.³¹⁶ If the meeting was with a staff member because the legislator was unavailable, address the letter to the legislator with a copy (or “cc”) to the staff member.³¹⁷ If the meeting was intentionally with staff, write the legislator to thank her/him for providing staff to meet, lightly touching on the core issue. Send a copy of the letter to other members of the organization who are also lobbying directly on behalf of the cause.³¹⁸
- Follow up with any information promised to the legislator.³¹⁹
- Track how the legislator responds. If he or she followed through or later acted in a way beneficial to the cause, thank him or her; if there is no follow-through, request an explanation.³²⁰
- Keep track of results of each similar meeting and the tactics used to better identify more successful advocacy techniques for the future.³²¹

³¹² LDA, “Meeting With Legislators: Federal, State, or Local,” *supra* note 275.

³¹³ AAPA, “Tips for Meeting with Legislators,” *supra* note. 278; APA, “Tips for Successful Legislative Meetings,” *supra* note 276.

³¹⁴ APA, “Tips for Successful Legislative Meetings,” *supra* note 276; LDA, “Meeting With Legislators: Federal, State, or Local,” *supra* note 275.

³¹⁵ LDA, “Meeting With Legislators: Federal, State, or Local,” *supra* note 275.

³¹⁶ *Ibid.*

³¹⁷ *Ibid.*

³¹⁸ *Ibid.*

³¹⁹ APA, “Tips for Successful Legislative Meetings,” *supra* note 276.

³²⁰ *Ibid.*

³²¹ APA, “Tips for Successful Legislative Meetings,” *supra* note 276.

- Touch base with the office from time to time.³²²

(ii) Legislative Advocacy

In addition to engaging generally with elected officials, advocates may work to influence the legislative process of their country of residence by advocating for or against specific legislation that impacts the human rights situation in their country of origin. Otherwise known as lobbying, this involves specific work on actual proposed or pending legislation with an intent to influence the outcome of the vote on that bill.

Diaspora communities can wield significant influence around foreign policy, foreign aid, and other legislation that has a direct impact in their country of origin.

Legal Considerations of Lobbying

Before embarking on a lobbying strategy, advocates should consider their organization's legal status and resources. The following section, which focuses on lobbying in the United States, provides a general overview for advocates to understand what constitutes lobbying under the law. Each country's lobbying laws and practices are different, however. Advocates outside the United States should consult with local organizations with expertise in lobbying to tailor their government-focused advocacy to the local context.

What does the U.S. tax code say about lobbying?

The Internal Revenue Service (IRS) defines lobbying as any attempt to influence legislation, either by contacting members or employees of a legislative body, or encouraging others to do so in favor of or in opposition to legislation. In this case, legislation refers to any acts, bills, resolutions, or similar items put forward by the U.S. Congress, state legislatures, city councils, or other governing boards.³²³

The rules for lobbying differ based on the type of organization involved and the type of activity. For example, a 501(c)(3) tax-exempt organization may participate in some lobbying, but taking part in too much lobbying activity could result in a loss of tax-exempt status. Generally speaking, the federal government uses one of two tests to determine if a 501(c)(3) group is performing an acceptable amount of lobbying:

1. Expenditure Test. Lobbying activity is measured in terms of the amount of expenditures relative to the size of an organization.³²⁴
2. Substantial Part Test. A number of factors, including the amount of employee and volunteer time, in addition to expenditures, are measured to determine if the amount of lobbying is "substantial."³²⁵

In addition to federal regulations, individual states and local units of government may have their own lobbying regulations and requirements. As an example, lobbyists operating in the State of Minnesota are governed by the Campaign Finance and Public Disclosure Board.³²⁶ It is a good idea to research additional rules before beginning any lobbying.

It is important to note that lobbying is different from advocating, which involves promoting a particular cause. The Minnesota Council of Nonprofits³²⁷ identifies five categories of activity that do not constitute lobbying:

1. Self-defense;

³²² AAPA, "Tips for Meeting with Legislators," *supra* note 278.

³²³ IRS, "Lobbying," accessed Jan. 22, 2014, <http://www.irs.gov/Charities-%26-Non-Profits/Lobbying>.

³²⁴ IRS, "Measuring Lobbying Activity: Expenditure Test," accessed Jan. 22, 2014, <http://www.irs.gov/Charities-&-Non-Profits/Measuring-Lobbying-Activity:-Expenditure-Test>.

³²⁵ *Ibid.*

³²⁶ Minnesota Campaign Finance and Public Disclosure Board, "Home Page," accessed Jan. 22, 2014, <http://www.cfboard.state.mn.us/>.

³²⁷ Minnesota Council of Nonprofits, "Federal Law and Nonprofit Lobbying," accessed Jan. 31, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/public-policy-advocacy/federal-law-and-nonprofit-lobbying>.

2. Technical advice;
3. Non-partisan analysis or research;
4. Examination and discussion of broad social or economic problems; and
5. Regulatory and administrative issues.

If an organization is unsure as to its status or activities, staff should consult a qualified attorney immediately.

Not all lobbying is treated equally. In fact, the IRS lists clear distinctions between direct and grassroots lobbying, described here by the Minnesota Council of Nonprofits.³²⁸

Direct Lobbying: Direct lobbying is when an advocate states his or her position on specific legislation to legislators or other government employees who participate in the formulation of legislation, or urges members to do so. In order to qualify as direct lobbying, the statement must refer to specific legislation, express a view on it, and work to have that governmental body adopt that same position or viewpoint. At the federal level, paid staff who work for organizations that engage in this form of lobbying must submit disclosure reports to the U.S. Congress. Further details are available on the websites for the U.S. House of Representatives and the U.S. Senate and through their respective chief administrative officers.

Grassroots Lobbying: Grassroots lobbying is when an advocate states his or her position on specific legislation to the general public and asks the general public to contact legislators or other government employees who participate in the formulation of legislation. If the communication to the general public does not include a call to action, it is not lobbying.

At the federal level, these distinctions are codified in the “Honest Leadership and Open Government Act of 2007” (Public Law 110-81).

Identify the Issue

Legislation starts with an idea. Identify clearly what the problem is, what solution you propose, and why that solution is both necessary and appropriate. Research the issue to be sure that legislation is needed. Write up this idea in a one-page explanation.

Identify a Legislative Author

After the organization has identified its policy proposals, its next step should be to identify a sitting legislator to be the bill author. In order for a bill to be introduced for consideration by the legislature, a legislator must agree to submit it under his or her name. Bill authors do not actually perform the writing of the bill, rather, the author is responsible for navigating proposals through the legislative process and helping to advocate for that particular issue with his or her elected colleagues.

Finding a bill author can be challenging, but there are several helpful strategies:



³²⁸ Ibid.

1. A personal relationship between a legislator and the organization or its members is often the most effective when looking for an author. Determine if anyone in the coalition has relationship with legislative staff (who work directly for a legislator or for a committee, or both). Enlist their assistance in finding supportive legislators. Lobbying and politics are often as much about relationships as they are about policy.
2. Most elected bodies keep detailed electronic archives of previously introduced legislation—research can help reveal if any legislators have worked on this specific issue in the past.
3. Look for legislators who have had prior experience working on similar issues. Legislative bodies divide themselves up into committees that focus on distinct policy areas which can help narrow a search for an author. The ideal opportunity is when the target is a champion of the issue and sits on the committee with jurisdiction over the subject matter.

Draft Legislation

After a legislator agrees to carry the bill, the next step is to transform the proposal into formal legislation. All legislative bills, regardless of subject matter, must be drafted to adhere to certain legal language standards before they begin to move through the legislative process.³²⁹ Each legislative branch will have a research or revising office that will help format the proposal into this legislative language. However, advocates should always remember to keep legislative timelines in mind—this bill is not the only one on which staff members will be working and their workload often accumulates quickly after a legislative session begins. It is a good practice to submit legislative language to them as early as possible.

Deal with Opposition

Hearing opposition to one's ideas can be uncomfortable and sometimes intimidating. Although difficult at times, it is important to try to remain respectful to the opposition. Everyone has a right to make his or her respective cases, but legislators are less likely to listen objectively to any arguments if they believe a debate has spiraled into a personal fight.

Although most lobbyists prefer to have their initiatives pass without any opposition, disagreements can also be very useful tools. Advocates should listen carefully for opportunities to clarify or correct misrepresented information or any inaccurate facts. In some situations, these discussions can lead to solutions for policy concerns that may not have been anticipated in the beginning of the process.

When the opponent is a sitting legislator, advocates should seek common ground, at least by keeping dialogue open. Legislators can have an array of reasons for opposing bills—even ones that seek to protect or promote human rights. Advocates should try to understand these reasons so they can develop effective counter-arguments. Advocates may be able to identify other areas of common ground beyond the particular legislative proposal that can form the basis of relationships that ultimately aid their efforts. Relationship-building with the opposition can lead to surprising results.

Get the Bill Heard in Committee Hearings

After the bill has been introduced, legislative leadership will refer it to the appropriate committee. Advocates should not assume that their bill will automatically be given time on a committee's agenda. Instead, they should investigate the proper protocol for requesting time on a committee's docket, and research whether the bill must be heard by additional committees. The bill author can be a helpful resource in this situation.

³²⁹ As always, be sure to research the specific bill drafting procedures for the legislative body you will be lobbying.

Nigerian Diaspora Group Lobbies for Hearing on Situation in Ogoniland and Niger Delta Region

A Nigerian diaspora group, the Council of Ogoni Professionals International, reported to Voice of America News that a U.S. House of Representatives committee had agreed to hold a hearing “on the situation in Ogoniland and the oil-rich Niger Delta region” and that Congress had drafted a concurrent resolution on the importance of the Niger Delta. Council member Anslem John-Miller said he had received an invitation to testify at the hearing because of “quiet lobbying by his organization” and urged the diaspora community to reach out to their representatives to ask for support of the resolution.³³⁰



Niger Delta oil and gas fields

After the bill has been assigned to a committee and a hearing has been scheduled, advocates should attempt to meet with each member of the committee before the hearing takes place. During the course of these meetings, advocates should determine if the bill has enough votes to pass. In the legislature, if it appears that the committee is split, or there are insufficient votes to pass the bill, consideration should be given to rescheduling the bill. It is better to delay a vote that may not win than to push it forward and risk losing the vote on the bill. Bills voted down in committee are far less likely to be taken up again in the near future.

United Farm Workers Presses for Immigration Reform

The United Farm Workers (UFW) is active in legislative lobbying to address frequent violations of human rights and farm workers’ labor rights in the United States and Mexico.³³¹ The UFW is currently using social media to share photos and stories, pressuring key senators to support immigration reform.³³² The UFW website provides instructions on how to participate in this advocacy, including separate pages with pre-drafted emails that supporters can send to legislators on a number of issues.³³³ Learn more about United Farm Workers at its website at <http://www.ufw.org/>.



³³⁰ James Butty, *Nigeria’s Niger Delta to Receive US Congressional Hearing*, Voice of America, June 28, 2012, <http://www.voanews.com/content/us-congressional-committee-to-hold-hearing-on-nigeria-in-july/1263039.html>.

³³¹ Kathleen Newland, *Voice After Exit: Diaspora Advocacy* (Migration Policy Institute, 2010), 6. Also available online at <http://www.migrationpolicy.org/pubs/diasporas-advocacy.pdf>.

³³² United Farm Workers, “Fieldfotos,” accessed Jan. 9, 2014,

http://www.ufw.org/_board.php?mode=view&b_code=cre_leg_back&b_no=13966&page=1&field=&key=&n=39.

³³³ United Farm Workers, “Speak Out,” accessed Jan. 9, 2014, http://action.ufw.org/page/speakout/CA_chloropicrin?js=false (as an example).

In Congress, consideration of bills in committee is a two-step process. First, bills receive a hearing, during which witnesses may offer testimony if the Chair invites them. “A hearing is a meeting or session of a Senate, House, joint, or special committee of Congress, usually open to the public, to obtain information and opinions on proposed legislation, conduct an investigation, or evaluate/oversee the activities of a government department or the implementation of a Federal law. In addition, hearings may also be purely exploratory in nature, providing testimony and data about topics of current interest.”³³⁴ Hearings “are the principal formal method by which committees collect and analyze information in the early stages of policy making.”³³⁵

In Congress, consideration of bills in committee is a two-step process. First, bills receive a hearing, during which witnesses may offer testimony if the chair invites them. “A hearing is a meeting or session of a Senate, House, joint, or special committee of Congress, usually open to the public, to obtain information and opinions on proposed legislation, conduct an investigation, or evaluate/oversee the activities of a government department or the implementation of a Federal law. In addition, hearings may also be purely exploratory in nature, providing testimony and data about topics of current interest.”³³⁶ Hearings “are the principal formal method by which committees collect and analyze information in the early stages of policy making.”³³⁷



Major Bernadel addresses the Global Haitian Diaspora Unity Conference in 2012

Retired Army Officer from Haitian Diaspora Testifies about the Need for Funding to Rebuild Haiti

Major Joseph M. Bernadel, a retired U.S. Army Officer and a member of the Haitian diaspora, testified on behalf of the Interim Haiti Reconstruction Committee before the Senate Committee on Foreign Relations, advocating for commitment to spending for rebuilding after the 2010 earthquake.³³⁸

Second, bills receive a mark-up during which final votes that push them out of committee are taken. Hearings on bills are done solely at the discretion of Committee or Subcommittee Chair. Bills without strong support from the majority party within a committee seldom receive hearings. Bills that do not have the votes to pass are never taken up in Committee.

During a hearing in the legislature, the bill author and a representative of the lobbying group will present the bill to the committee. Typically, this presentation consists of a brief discussion of the provisions in the bill and any necessary background information. In Congress, bills are routinely brought up when sponsors are not present. The sponsors, however, have previously collaborated with the committee’s leadership to ensure that the bill is heard.

³³⁴ U.S. Government Printing Office (GPO), “Congressional Hearings,” accessed Jan. 9, 2014, <http://www.gpo.gov/fdsys/browse/collection.action?collectionCode=CHRG> [hereinafter GPO].

³³⁵ U.S. Army Training and Doctrine Command (TRADOC), *So You’ve Been Asked to Testify before Congress*, (Fort Monroe, VA: Congressional Activities Office), 1. Also available online at <http://www.tradoc.army.mil/tpubs/misc/handbooktestifyingbeforecongress.pdf>.

³³⁶ U.S. Government Printing Office, “Congressional Hearings,” *supra* note 334.

³³⁷ U.S. Army Training and Doctrine Command (TRADOC), *So You’ve Been Asked to Testify before Congress*, *supra* note 335.

³³⁸ See the written statement of Major Joseph M. Bernadel (Ret.) at <http://www.foreign.senate.gov/imo/media/doc/Bernadel%20testimony%20-%20corrected.pdf>.

Practitioner's tip: When Testifying Before a Committee, It Is Important To Be Organized

1. Double-check where and when the hearing will be held so interested parties can arrive on time. Communicate with committee staff to ask about any protocols unique to the chair/ranking member of the committee, in general, of which you need to be aware. Provide staff with information on how to contact you the day of the event should any problems arise. Find out whether other witnesses will be giving testimony and understand what their main message will be.³³⁹ Hearings are often set up to hear opposing views.³⁴⁰ Research the other side so you are prepared to counter opposing views during your testimony and during the question and answer period.³⁴¹
2. In preparing materials to distribute, provide enough copies so that every member of the committee and the audience may have one.
3. Decide in advance of the hearing who will testify to the committee. Inform committee staff before the hearing who will be testifying for the group so their names can be added to the agenda.
4. Testimony should be succinct and straightforward: What does the bill do? Why is it important? Who else supports the bill? Understand fully the purpose of the hearing,³⁴² and stay on topic. Respect the committee's jurisdiction on the matter and do not comment on elements that are outside of its scope. Attempt to incorporate your personal and professional experiences, as well as examples from your community.³⁴³
5. Prepare three versions of the written statement:³⁴⁴
 - Official written statement. This version will go into the record as what was said at the beginning of the hearing, and should take 5–20 minutes.³⁴⁵ Include an executive summary of this testimony which clearly conveys the facts and key messages.³⁴⁶
 - Opening remarks. This version is a shorter version of the official statement; it must be consistent with your official version and should be between 3–5 minutes.³⁴⁷ Practice reading aloud.
 - Abbreviated opening remarks. This version is an even shorter version of the official statement, approximately 1 minute, in case strict time-limits are imposed.³⁴⁸

Testifiers should feel free to bring prepared notes with them to the witness table.

6. Consider using visual aids to support and augment points made orally, attract attention and stimulate interest, where a picture or other visual aid expresses a point more powerfully than words, or to create a “visual source for discussion, questions and answers in the hearing for the committee members to return to for consideration.”³⁴⁹ Remember to notify the committee ahead of time that you intend to use visual

³³⁹ American College of Emergency Physicians (ACEP), “Testifying Before Lawmakers,” accessed Jan. 9, 2014, <http://www.acep.org/Advocacy/Testifying-Before-Lawmakers/>; University Corporation for Atmospheric Research (UCAR), “So, You’ve Been Asked to Testify,” accessed Jan. 22, 2014, http://www.ucar.edu/oga/html/advocacy/tips_on_testifying.html.

³⁴⁰ University Corporation for Atmospheric Research (UCAR), “So, You’ve Been Asked to Testify,” *supra* note 339.

³⁴¹ American College of Emergency Physicians (ACEP), “Testifying Before Lawmakers,” *supra* note 339.

³⁴² *Ibid.*; University Corporation for Atmospheric Research (UCAR), “So, You’ve Been Asked to Testify,” *supra* note 339.

³⁴³ American College of Emergency Physicians (ACEP), “Testifying Before Lawmakers,” *supra* note 339.

³⁴⁴ U.S. Army Training and Doctrine Command (TRADOC), *So You’ve Been Asked to Testify before Congress*, *supra* note 335, at 5.

³⁴⁵ *Ibid.*

³⁴⁶ American College of Emergency Physicians (ACEP), “Testifying Before Lawmakers,” *supra* note 339.

³⁴⁷ U.S. Army Training and Doctrine Command (TRADOC), *So You’ve Been Asked to Testify before Congress*, *supra* note 335, at 5.

³⁴⁸ *Ibid.*

aids, and provide members a hard copy of the visual aids along with your written testimony.³⁵⁰

7. Be prepared for members of the committee to ask questions. Communicate with the committee staff before the hearing and inquire as to what questions/types of questions will be asked; committee staff often draft the questions.³⁵¹ Stick to your main message/theme. If possible, incorporate your main message throughout all of your answers.³⁵²

8. If asked a question to which you do not know the answer, admit that you do not know and ask permission to write a detailed response at a later time. Guessing, or giving an incorrect answer, could damage your credibility, as the committee member may know the correct answer.³⁵³ If the question asked is vague, you may consider giving a broad or generic answer using your main message.³⁵⁴ Remember that what you share is part of a permanent, public record.

9. Consider providing copies of your remarks to the media.³⁵⁵ Factor your testimony into any outreach and media relations strategy.

10. Follow up. Thank the staff with whom you worked for their assistance throughout the process, and offer to participate in the future.³⁵⁶

For detailed advice on testifying before Congress, see William N. LaForge, *The Capitol.net, Testifying before Congress* (2010).



Types of Congressional Hearings

Types of Congressional hearings include *Legislative*, *Oversight*, *Investigative*, and *Confirmation*. Legislative hearings are to consider proposed legislation or the need for legislation. Oversight hearings are conducted to gather information or to review the implementation of legislation by the executive branch. Investigative hearings are to find evidence of wrongdoing. Confirmation hearings review Presidential appointments that are subject to confirmation by the Senate.³⁵⁷

Regardless of the type of hearing, advocates should always: (1) identify and set up opportunities to testify; (2) prepare thoroughly; (3) know what to expect at the hearing; and (4) have a follow-up plan. An advocate who offers herself as a subject matter expert for a hearing can demonstrate her seriousness about an issue. Testifying can also serve to build relationships with members of Congress and staff.

³⁴⁹ William N. La Forge, *Testifying Before Congress* (Alexandria, VA: The Capitol.net, 2010), 298.

³⁵⁰ American College of Emergency Physicians (ACEP), "Testifying Before Lawmakers," *supra* note 339.

³⁵¹ *Ibid.*; University Corporation for Atmospheric Research (UCAR), "So, You've Been Asked to Testify," *supra* note 339.

³⁵² U.S. Army Training and Doctrine Command (TRADOC), *So You've Been Asked to Testify before Congress*, *supra* note 335, at 14.

³⁵³ American College of Emergency Physicians (ACEP), "Testifying Before Lawmakers," *supra* note 339.

³⁵⁴ U.S. Army Training and Doctrine Command (TRADOC), *So You've Been Asked to Testify before Congress*, *supra* note 335, at 14.

³⁵⁵ American College of Emergency Physicians (ACEP), "Testifying Before Lawmakers," *supra* note 339.

³⁵⁶ University Corporation for Atmospheric Research (UCAR), "So, You've Been Asked to Testify," *supra* note 339.

³⁵⁷ U.S. Army Training and Doctrine Command (TRADOC), *So You've Been Asked to Testify before Congress*, *supra* note 335, at 2.

See It Through

The committee hearing is often just the beginning of the process. As bills come out of committee, lobbying efforts will continue, using the same tactics described above. One-on-one meetings with legislators will continue to be important, as will mobilizing the organization's base to make calls in support of the bill.

At the end of a lobbying campaign, advocates should take time to review all that has happened in order to evaluate the appropriate next steps. Analyze which tactics were effective, and, if necessary, consider changing a strategy.

Lobbying for an important cause can be a very rewarding and fulfilling experience. Beyond the facts and arguments, however, advocates should remember that their most important asset in the capitol building or city hall will always be their reputation. To that end, advocates should constantly strive to act professionally and provide accurate information to all parties.

Comment on Legislation

Even when an organization does not propose its own legislation, there are opportunities to participate in legislative advocacy. Policymakers may draft legislation in response to the recommendations from important reports or studies. Part of that process often involves contacting appropriate groups or agencies to obtain comments on the bill's substance. Such commentary can be a valuable opportunity to influence policy decisions.

Organizations should carefully observe notices released by public agencies to closely follow actions that will affect their issues. Often state departments will publish requests for comment on initiatives, which are important opportunities to influence public policy on the regulatory level. Organizations should also watch legislative calendars. Often legislative committees will hold hearings on topics of interest. Testimony and other information provided at those hearings can influence future legislative proposals, and ultimately, the resulting law.

Hold a Congressional Briefing

A congressional briefing requires fewer resources than a committee hearing and can be an effective way for advocates to convey important information to congressional and executive-branch staffers and to a broader audience. A briefing functions like a short lecture on a targeted topic about which one or more experts present information for a lay audience of policy-makers.³⁵⁸ Briefings are a good way to provide staffers with relevant background information about a human rights issue. Some larger organizations host a series of congressional briefings on a particular theme throughout the year. The Advisory Committee to the Congressional Research and Development Caucus is one such organization. For further information, consult its *How to Organize a Congressional Briefing*, available online at <http://www.researchcaucus.org/docs/Organizing%20Congressional%20Briefings.pdf>.

³⁵⁸ Advisory Committee to the Congressional Research and Development Caucus, "How to Organize a Congressional Briefing," accessed Jan. 16, 2014, <http://www.researchcaucus.org/docs/Organizing%20Congressional%20Briefings.pdf>.

Congressional Briefing Highlights Concerns about LGBT Rights in Russia in Run-up to Sochi Olympics

On Friday, December 13, 2013, U.S. representative David Cicilline and Human Rights First hosted a congressional briefing at Capitol Hill to address human rights concerns for the 2014 Sochi Olympic games in Russia. Russia was under fire for its recent anti-LGBT law prohibiting “[the] distribution of information that is aimed at the formation among minors of non-traditional sexual attitudes, attractiveness of non-traditional sexual relations, misperceptions of the social equivalence of traditional and non-traditional sexual relations, or



Congressional briefing with Olympian Greg Louganis and Russian activists about LGBT rights in Russia

enforcing information about non-traditional sexual relations that evokes interest to such relations.”³⁵⁹

Human Rights First noted that Russia’s law violates the Olympic Charter, which states that “Every individual must have the possibility of practicing sport, without discrimination of any kind and in the Olympic spirit, which requires mutual understanding with a spirit of friendship, solidarity and fair play.”³⁶⁰

Prior to the briefing, Human Rights First sent a letter to the Obama Administration citing the symbolic importance of the U.S. delegation to the opening and closing ceremonies of the Olympics. Human Rights First urged the administration to select a delegation including prominent LGBT figures as well as LGBT allies. The briefing addressed the importance of preparing the U.S. delegation to engage Russian officials, the international media, and human rights defenders regarding issues of human rights and equality at the Olympics.³⁶¹ The briefing also addressed the importance of educating U.S. delegates on LGBT rights and the laws currently in place in Russia, particularly because foreigners who do not follow the anti-propaganda law may be subject to 15 days in prison and deportation from Russia.³⁶²

On December 18, the administration announced its delegation to the Sochi Olympics.³⁶³ The delegation includes three prominent, openly gay athletes.³⁶⁴

³⁵⁹ The Council for Global Equality, “The Facts on LGBT Rights in Russia,” accessed Jan. 9, 2014,

<http://www.globalequality.org/newsroom/latest-news/1-in-the-news/186-the-facts-on-lgbt-rights-in-russia>.

³⁶⁰ International Olympic Committee, *Olympic Charter* (Switzerland: International Olympic Committee, Sept. 9, 2013), 11. Also available online at http://www.olympic.org/Documents/olympic_charter_en.pdf.

³⁶¹ Human Rights First, “Congressional Briefing on LGBT Rights with Greg Louganis,” accessed Jan. 9, 2014,

<http://www.humanrightsfirst.org/2013/12/13/congressional-briefing-on-lgbt-rights-with-greg-louganis/>.

³⁶² The Associated Press, “Q&A on Anti-Gay Legislation in Russia,” accessed Jan. 9, 2014, <http://bigstory.ap.org/article/qa-anti-gay-legislation-russia>.

³⁶³ Cindy Boren, *Obama names openly gay athletes to Sochi Olympic Delegation*, Washington Post, Dec. 18, 2013,

<http://www.washingtonpost.com/blogs/early-lead/wp/2013/12/18/obama-names-openly-gay-athletes-to-sochi-olympic-delegation/>.

³⁶⁴ Fox Sports, “Figure Skating Champ, U.S. Sochi Delegate Brian Boitano Says he’s Gay,” accessed Jan. 9, 2014,

<http://msn.foxsports.com/olympics/story/figure-skating-champ-brian-boitano-says-he-is-gay-united-states-sochi-delegate-1211813>.

iv. Advocacy Targeting Businesses

Some human rights issues arise out of business practices. Advocates should consider whether shareholder advocacy or consumer activism can be effective strategies to address human rights violations caused by or related to business practices. In addition, advocates can target business practices indirectly by lobbying government lawmakers and regulators or intergovernmental organizations.

UN Guiding Principles on Business and Human Rights

In 2011, the UN Human Rights Council endorsed the results of a six-year study called the Guiding Principles on Business and Human Rights.³⁶⁵ The Guiding Principles concern the businesses themselves (11–25, 30–31) and the States involved (1–10, 26–29, 31). These Principles are a good standard by which to assess any business. Advocates can use them to press a business to respond to human rights violations. For example, principle 15 recommends that businesses establish internal policies and processes to address adverse impacts on human rights. Principle 17 calls on businesses to engage in ongoing human rights due diligence, principle 20 includes an assessment of the effectiveness of measures taken, and principle 22 enlists businesses to provide for or cooperate with remediation if adverse impacts have occurred. If a business does not have a credible system for addressing human rights concerns, advocates should encourage the business to consult the Guiding Principles to establish one.³⁶⁶

a. Shareholder Advocacy

The most important consideration for shareholder advocacy is that numbers count. Few people own enough shares to make a difference on their own. Advocates should work to build a coalition of investors willing to take a stand together in order to pressure a company to change.

People who hold shares in a publicly held company can advocate for change within the company in four main ways:

- Making proposals to management;
- Voting for or against candidates for the company's board of directors;
- Introducing and voting on shareholder resolutions; and
- Divesting shares.

Proposals to management

Shareholders can make proposals directly to company management to address human rights issues. Shareholders should contact management informally before making a formal proposal. This approach gives management the ability to make changes before an issue becomes public, creating an opportunity to resolve the issue at the earliest possible stage and reducing the risk of the company responding defensively. If shareholders are unable to reach an acceptable resolution, they can make an official proposal.

³⁶⁵ UN Human Rights Council Resolution 17/4, UN Document A/HRC/RES/17/4 (June 16, 2011). Also available online at http://www.ohchr.org/documents/dpage_e.aspx?si=A/HRC/17/L.17/Rev.1.

³⁶⁶ In fact, the Human Rights Council Complaint Procedure form requires that domestic options have either been exhausted or proof that they will be ineffective or unreasonably prolonged. Office of the High Commission for Human Rights, "Human Rights Council Complaint Procedure," accessed Jan. 9, 2014, <http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx> (relevant form can be found here). See also Appendix I.

Voting

Publicly held companies hold annual meetings during which shareholders elect a board of directors and vote on any resolutions presented to shareholders. These annual meetings give shareholders the opportunity to participate in corporate decision-making. Shareholders can inquire about board candidates' positions on human rights issues. A person holding even a single share is entitled to attend the company's annual meeting.

Shareholder resolutions

Substantial shareholders may introduce shareholder resolutions that have the potential to bind the board's conduct. A shareholder resolution could, for example, require a company to review its human rights policies. To be eligible to submit a resolution in the United States, a shareholder generally must have continuously owned at least \$2,000 in shares for at least one year and must continue to hold those securities through the date of the annual meeting.³⁶⁷ Rules for other countries vary.

IBM Shareholders to Vote on Resolution Calling for Supplier Sustainability Reporting

In 2014, IBM shareholders will vote on a shareholder resolution submitted by the New York City Office of the Comptroller:³⁶⁸

RESOLVED: Shareholders request that the Board of Directors take the steps necessary to require the Company's significant suppliers to each publish an annual, independently verifiable sustainability report that the Company makes available to its shareholders.

Among other disclosures, reports should include the suppliers' objective assessments and measurements of performance on workplace safety, human and worker rights, and environmental compliance using internationally recognized standards, indicators and measurement protocols. In addition, reports should include incidents of non-compliance, actions taken to remedy those incidents, and measures taken to contribute to long-term prevention and mitigation.

Significant suppliers are those from which the Company reasonably expects to purchase at least \$1 million in goods and services annually.

In some cases, shareholders withdraw these resolutions after the company promises to address the issues raised.

Ceres Helps Track Shareholder Resolutions

Ceres is a nonprofit organization that established an Investor Network on Climate Risk. Ceres tracks shareholder resolutions on sustainability issues, including human rights. Ceres makes these resolutions available in a searchable database: <http://www.ceres.org/investor-network/resolutions>.

Divestment

If all else fails, a shareholder may simply sell, or "divest," shares in protest. One of the most famous examples of a successful divestment campaign took place in response to apartheid in South Africa. During the 1980s, college students across the United States pressured their schools to divest from companies doing business in South

³⁶⁷ U.S. Government Printing Office (GPO), "Electronic Code of Federal Regulations: § 240.14a-18 Shareholder proposals," accessed Jan. 9, 2014, <http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&rgn=div5&view=text&node=17:3.0.1.1.1&idno=17#17:3.0.1.1.1.2.88.226>.

³⁶⁸ Ceres, "IBM Supplier Sustainability Reporting," accessed Jan. 16, 2014, <http://www.ceres.org/investor-network/resolutions/ibm-supplier-sustainability-reporting>.

Africa. As schools began to divest, state and local governments and private corporations began to take notice. By 1990, over 150 schools, nearly 100 cities, and approximately 200 companies had eliminated some or all of their investments tied to South Africa. The visibility of the anti-apartheid movement grew as the divestment campaign spread, leading to increased awareness of conditions under apartheid. Ultimately, “worldwide popular opposition in the 1980s contributed to the decline of apartheid, and divestment was an important piece of this puzzle.”³⁶⁹

b. Consumer Advocacy

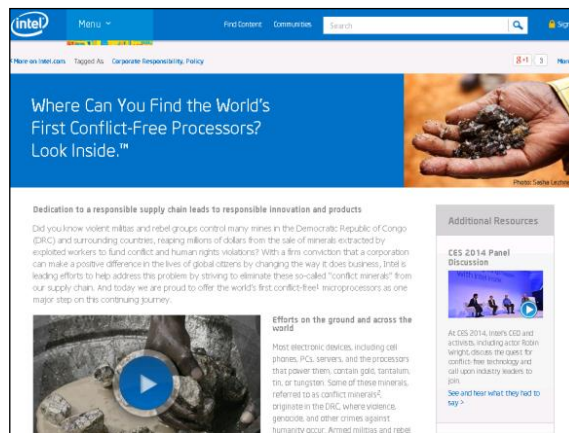


“Consumer advocacy refers to actions taken by individuals or groups to promote and protect the interests of the buying public.”³⁷⁰ These interests can vary from consumer safety to human rights violations. Consumers may engage in boycotts, petitions, letter-writing, and awareness-building campaigns.

Some businesses are proactive in their commitment to human rights. Carlson Companies, owner of hotel brands such as Radisson and Country Inns and Suites, has been a leader in the corporate movement to combat human trafficking. Traffickers often base their operations out of hotel rooms, so Carlson

requires training for its employees to help identify and respond to human trafficking. Carlson is also active in the broader business community, promoting the use of anti-human trafficking policies.³⁷¹ In 2013, Carlson received the Presidential Award for Extraordinary Efforts to Combat Trafficking in Persons.³⁷²

At the January 2014 Consumer Electronics Show, Intel, the world’s leading computer processor manufacturer, announced that its processors were free from so-called conflict minerals. Minerals such as gold, tantalum, tin, and tungsten are found in a wide variety of consumer electronic goods, but they often come from war-torn countries like the Democratic Republic of Congo, and the mines where those minerals come from often have ties to armed groups. In 2000, the U.S. Government enacted a law that did not prohibit manufacturers from using conflict minerals, but instead simply required companies to disclose to the public if products are manufactured with conflict minerals. In response to this law, Intel first mapped its production supply chain to identify where its minerals came from. Then it conducted site visits and third-party audits of the smelters in the supply chain. Intel told these smelters that if they wanted Intel’s business, they needed to provide validation that the minerals were conflict-free. As Intel and other large customers began asking for this validation, many smelters changed their systems and altered their sourcing practices. Going forward, Intel will continue to monitor



³⁶⁹ Eric Hendey, *Does Divestment Work?* Harvard Political Review, <http://www.iop.harvard.edu/does-divestment-work>.

³⁷⁰ U.S. Legal, “Carlson Receives Inaugural Award for Extraordinary Efforts to Combat Trafficking in Persons,” accessed Jan. 9, 2014, <http://definitions.uslegal.com/c/consumer-advocacy/>.

³⁷¹ Carlson, “Carlson Receives Inaugural Award for Extraordinary Efforts to Combat Trafficking in Persons,” accessed Jan. 9, 2014, <http://www.carlson.com/news-and-media/news-releases.do?article=6733463>.

³⁷² *Ibid.*

the smelters to ensure that the minerals do not come from conflict zones. As Intel's Director of Supply Chain Management put it, "it will be up to the public and ultimately consumers to determine and highlight those that are doing the right thing and those that are choosing to turn away."³⁷³

Social Media as a Consumer Advocacy Tool

John Ruggie, Professor of Human Rights and International Affairs at Harvard University, and the author of the UN Guiding Principles, observed that consumers can effectively use "social media coupled with commentaries from an authoritative source" to maintain momentum toward the recognition of businesses' obligation to further human rights.³⁷⁴ Businesses are ultimately seeking profit, and if public opinion demands better respect for human rights, businesses may respond to public demand.

Consumers and Civil Society Organizations Press for Improved Conditions after Garment Factory Collapses in Bangladesh

Bangladesh is a global hub of garment production. Many major U.S. and European retailers produce clothing in the country. In April 2013, a Bangladeshi garment factory collapsed, killing more than 1,000 workers. In the wake of the collapse, a group of NGOs, labor organizations, and retailers drew up an international pact, the Accord on Fire and Building Safety in Bangladesh. The Accord has over 70 corporate signatories. Many major U.S. retailers, however, have refused to sign the agreement.³⁷⁵



Workers in a garment factory in Bangladesh

c. Lobbying Governments and Intergovernmental Organizations to Press Businesses to Respect Human Rights

Legislative advocacy targeting business practices can focus on pressing for laws or regulations to improve business compliance with human rights standards. Advocates can press governments and inter-governmental organizations to comply with the Guiding Principles on Business and Human Rights by providing judicial and non-judicial mechanisms capable of addressing human rights issues. The Guiding Principles call on governments to provide "effective and appropriate non-judicial grievance mechanisms, alongside judicial mechanisms, as part of a comprehensive State-based system for the remedy of business-related human rights abuse."³⁷⁶ Non-judicial mechanisms can be an effective and accessible way for advocates to encourage businesses to respect human

³⁷³ Audie Cornish, "Intel Steers Clear of 'Conflict Minerals,'" All Things Considered, National Public Radio, Jan. 7, 2014, <http://www.npr.org/2014/01/07/260564575/intel-steers-clear-of-conflict-minerals>.

³⁷⁴ John Ruggie, "Guiding Principles on Business and Human Rights," in *Proxy Review* (As you Saw, 2013), 48. Also available online at http://www.proxyreview.org/wp-content/uploads/2013/03/ProxyPreview2013_0308.pdf.

³⁷⁵ Thomas Lee, *Target Joins Bangladesh Worker Safety Group*, Star Tribune, July 8, 2013, <http://www.startribune.com/business/214648191.html>.

³⁷⁶ Office of High Commissioner for Human Rights (OHCHR), *Guiding Principles on Business and Human Rights* (2011), 30, UN Document HR/PUB/11/04.

rights.³⁷⁷ The Organization for Economic Cooperation and Development (OECD) is an international organization that functions as a non-judicial grievance body.

Advocates Use OECD Grievance System to Raise Concerns about Business Involvement in Human Rights Abuses in Bahrain

In February 2013, Privacy International, the European Center for Constitutional and Human Rights, the Bahrain Center for Human Rights, Bahrain Watch, and Reporters without Borders filed formal complaints with the Organization for Economic Cooperation and Development calling for an investigation of two surveillance companies: Gamma International and Trovicor. The complaints allege that both companies may be complicit in serious human rights abuses in Bahrain.³⁷⁸

If the OECD accepts the complaints, OECD national contact points in the United Kingdom and Germany will:

- Investigate the extent of the companies' complicity in human rights abuses in Bahrain;
- Mediate between complainants and the companies;
- Issue final statements on whether the companies have breached OECD Guidelines;
- Provide recommendations to the companies on how to avoid further breaches; and
- Follow up in order to ensure that the companies comply with the recommendations.³⁷⁹

Advocacy at the United Nations and regional human rights mechanisms should be part of any comprehensive advocacy plan targeting business practices. For example, the UN Working Group on the issue of human rights and transnational corporations and other business enterprises plays an active role in examining the intersection between business practices and human rights, and it sometimes accepts individual communications about specific incidents of human rights violations. See Chapters 9 and 10 for more information.

The Netherlands Urges Finland to Adopt Mechanisms Preventing its Companies From Using Child Labor in Foreign Companies

UN advocacy can be an effective approach to changing the behavior of companies. At the Universal Periodic Review of Finland in May 2012, the Netherlands recommended that Finland “provide a framework for prohibiting use of child labour by the Finnish companies engaged with businesses abroad and multinational companies headquartered in Finland,” including Nokia, one of Finland’s largest companies.³⁸⁰ Finland responded that it has a “special programme to promote corporate social responsibilities of such companies.”³⁸¹

For more resources and links about business practices and human rights, consult Appendix G.

³⁷⁷ Ibid., 30.

³⁷⁸ Privacy International, “Human Rights Organisations File Formal Complaints Against Surveillance Firms Gamma International and Trovicor with British and German Governments,” accessed Jan. 9, 2014, <https://www.privacyinternational.org/press-releases/human-rights-organisations-file-formal-complaints-against-surveillance-firms-gamma>.

³⁷⁹ Ibid.

³⁸⁰ UN General Assembly, *Report of the Working Group on the Universal Periodic Review: Finland*, UN Document A/HRC/21/8, ¶ 90.16. Also available online at <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/150/24/PDF/G1215024.pdf?OpenElement>.

³⁸¹ Ibid. ¶ 32.

C. Social Media Tools for Human Rights Advocacy

Social media tools allow human rights advocates to engage in conversations with a global audience and to disperse information faster than ever before. The wide array of social media tools has revolutionized many aspects of modern society, sometimes serving as a catalyst for social change. Traditional media (newspapers, television, radio) remain an important part of advocacy, but they can be costly, time-consuming, and often limited in reach. Advocates can use social media to fundraise, share information, network, engage with stakeholders, and respond to human rights abuses.

What is “Social Media”?

At its most basic, social media is simply any form of media people use to be social. This includes traditional media tools as well as tools from new technology (e.g. text messaging, e-mail, web sites).³⁸² Often, when people talk about social media they mean public web-based tools that are continuously updated in a participatory and collaborative manner. These tools vary in terms of anonymity and immediacy.³⁸³ Some common social media “platforms” include:

- Twitter
- Facebook
- LinkedIn
- YouTube
- Instagram
- Reddit
- Pinterest
- Google+
- Blogs
- Listserves
- Internet forums
- Wikis
- Flickr
- Podcasts
- Instant messaging.

Technology and social media have increased access to evidence of human rights abuses and allow advocates to organize against those abuses more rapidly and effectively. These new means for sharing information have created an “unprecedented global public space that vastly increases and amplifies the number of accessible voices and connections in all parts of the world.”³⁸⁴

SMS is a Multifaceted Tool for Human Rights Advocacy

Organizations can use text-messaging (SMS) tools to alert their members to take action or respond to a human rights crisis. Groups can use SMS alerts to increase organizational membership, speed up response efforts, and help transmit digital content and brief messages. SERPAJ in Argentina uses a cell-phone alert system to respond to the arrests of children so that human rights defenders can arrive at jails quickly. The tactic has been used to alert individuals to neighborhood violence and human trafficking, and to call for people to participate in demonstrations. For more information on the tactic, see New Tactics in Human Rights’ report: *Using text-messaging to build constituencies for human rights action*: <https://www.newtactics.org/tactic/using-text-messaging-build-constituencies-human-rights-action>.

³⁸² Lon Safko, *The Social Media Bible: Tactics, Tools, & Strategies for Business Success* (Hoboken, NJ: John Wiley and Sons, 2nd ed. 2010), 4, 9–14.

³⁸³ Andreas M. Kaplan and Michael Haenlein, “Users of the World, Unite!: The Challenges and Opportunities of Social Media,” *Business Horizons* (2010), 53, 60–62.

³⁸⁴ Sarah Joseph, Social Media, Political Change, and Human Rights, 35 *Boston College International & Comparative Law Review* 145 (2012), [http://www.slideshare.net/ifad/ifad-social-media-guidelines](http://lawdigitalcommons.bc.edu/iclr/vol35/iss1/3).

Some Pros and Cons of Using Social Media for Advocacy	
Advantages	Disadvantages
Free or inexpensive	Sources of information can be unreliable
Potential for global reach	Some target audiences have limited internet access
Reduces need for “insider” contacts	Engagement can lead to cyber-bullying
Builds and supports coalitions	Anonymity can unleash incendiary language
Responds quickly to breaking news	Many outreach efforts find only a limited audience
Facilitates two-way communication	Engagement can be superficial
Promotes engagement and activism	Information overload may cause audiences to tune out
Empowers human rights defenders	Publicity may facilitate harassment or persecution
Facilitates rich content, including photos, video, and personal narratives	Volume of information may make it difficult for users to identify quality sources
Gives advocates control of the message	Over-reliance on social media may result in neglect of in-person advocacy opportunities

This chapter focuses on using social media for human rights advocacy, but there are many ways diaspora organizations and individuals in diaspora communities can take advantage of social media to promote human rights in their countries of origin. Social media can be a tool for:

Capacity-building

- Increase organizational membership;
- Conduct fundraising;
- Find volunteers;
- Identify organizations to collaborate with on human rights issues;
- Document the level of support for and interest in the organization for funders and other stakeholders;
- Evaluate the effectiveness of advocacy for funders and other stakeholders;
- Network with organizations and individuals in country of residence and country of origin;
- Establish relationships with journalists who may be interested in covering human rights issues;
- Publicize organizational events;

Fact-finding

- Gather information about human rights conditions from people in the country of origin;
- Gather information about human rights conditions from people in the diaspora;

Advocacy

- Raise awareness in the diaspora community about human rights conditions in the country of origin;
- Raise awareness among the general public about human rights conditions in the country of origin; and
- Encourage people to take action on human rights issues.

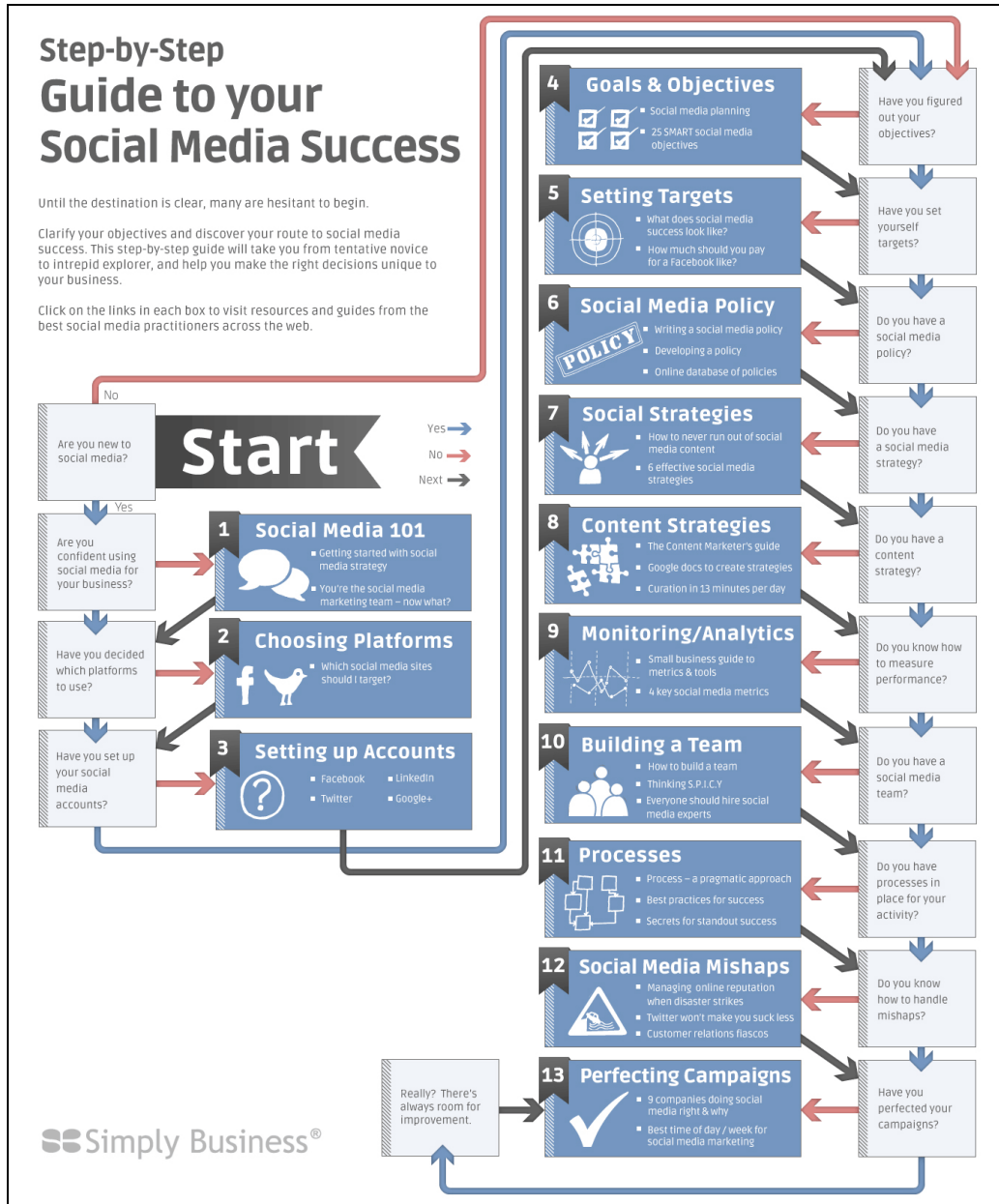
A Social Media Policy Can Help Advocacy Groups Control their Messaging

Thoughtful and carefully crafted messaging is an important component of any human rights advocacy strategy. Social media is a powerful tool for conveying advocacy messages to the public, but its ease of use creates the danger that an organization can lose control of the message. A social media policy can help an organization retain control over advocacy messages and other public outreach. There are many online resources to guide organizations in setting up a social media policy. It is important to consider how groups can conduct themselves ethically online, especially when they use social media to share

information. Civil society organizations should consider who can use social media on behalf of the organization, whether anyone must pre-approve any social media messages before they go out, and whether to have an organizational policy about “following” or “retweeting” other social media. For further information, consult:

- National Public Radio’s social media guidelines for reporters: <http://ethics.npr.org/tag/social-media/>
- Inc.’s advice to businesses on writing a social media policy: <http://www.inc.com/guides/2010/05/writing-a-social-media-policy.html>
- Advisory, Conciliation and Arbitration Service’s description of the process of setting up a social media policy: <http://www.acas.org.uk/index.aspx?articleid=3381>
- Social Media Governance’s database of social media policies from a wide variety of businesses and organizations: <http://socialmediagovernance.com/policies.php#axzz1jAcjKjPJ>.

Simply Business, a UK-based online business insurance broker, has created a flowchart with valuable insight on how to create a social media presence from scratch. The tool is geared toward businesses seeking to engage with social networking sites, but it offers helpful guidance for civil society organizations that want to perfect their use of social media, too:



i. Navigating Social Media Platforms

An organization that is interested in using social media can get started even before establishing a social media strategy. Advocates can experiment a bit to see how the platforms work. Each social media platform has certain strengths, and some platforms are more popular with certain target audiences. This table shows some of the strengths of the more popular platforms. But remember, social media platforms are constantly changing. And some platforms may be particularly popular among certain communities that groups may be targeting.

Practitioner's tip: Social media platforms are constantly evolving, and new platforms are always emerging. For an updated version of this book's information on social media advocacy, visit the diaspora social media section of The Advocates for Human Rights' website: www.advrightrights.org.

Social Media Platform	Strengths
Blogs	<ul style="list-style-type: none"> • “Citizen journalist” format allows advocates to create messaging using polished, journalistic style, enhancing credibility and potentially attracting attention from traditional media • Blogger controls overall page layout • Blog posts can demonstrate the connections between personal stories, the organization’s work, and current events • Bloggers can establish credibility with a wide audience by consistently providing quality content • Multiple bloggers can collaborate on a single blog • Metrics can measure visitors and clicks • Comments allow readers to interact with the organization
Facebook	<ul style="list-style-type: none"> • Capitalizes on real-world personal relationships • Allows individual followers to share messages with a network of friends • Organizations may purchase advertising for a low price • Groups can publicize events and keep track of attendees • Metrics are available to measure followers and the impact of posts
Twitter	<ul style="list-style-type: none"> • Allows quick action on breaking events • Hashtag searches enhance visibility of tweets • Reply, retweet, and favorite functions allow organizations to identify and engage with supporters • Easy to tweet via SMS, even without a smart phone • Metrics can demonstrate support and engagement on particular topics
YouTube, Vimeo	<ul style="list-style-type: none"> • Facilitates first-person story-telling • Engages and motivates viewers • Combines fact-finding and advocacy • Videos can be embedded in other social media platforms

Appendices C and D discuss in detail how to use some of the more common social media platforms, including blogs, Facebook, Twitter, and YouTube and Vimeo. Advocates who are interested in learning more about another social media platform can find more information by using their favorite search engine.

Other Social Media Platforms

Google+

Google+ pages allow users to create circles for sharing private information and having discussions with staff, donors, or other audiences. Groups can organize circles by interest, geographic location, or other demographic qualifiers. The Hangout app on Google+ allows users to connect with an audience through videoconferences with up to ten people at a time. This tool can be effective in organizing staff meetings, volunteer orientations, board meetings, or conversations with donors. For more information, visit <http://www.socialmediaexaminer.com/how-to-set-up-a-google-page-for-your-business/>.

LinkedIn

LinkedIn can help organizations manage relationships with other advocates, donors, board members, and

staff. Groups can create and maintain a “LinkedIn Nonprofit page,” learn about other organizations, and network with people who could be potential future donors, volunteers, or advocates. These LinkedIn Nonprofit pages allow groups to highlight their mission, share updates, and keep in touch with an audience. LinkedIn’s Board Member Connect for nonprofit organizations offers free access to the Talent Finder tool, exclusive educational webcasts, and membership to the Board Connect group. LinkedIn also allows groups to post job openings and recruit new employees, volunteers, and interns.

To create an organizational profile, consult <http://blog.linkedin.com/2008/11/17/creating-company-profiles-on-linkedin/>.

LinkedIn’s nonprofit portal is here: <http://nonprofit.linkedin.com/>.

Pinterest

Pinterest, a networking platform focused solely on sharing visual digital content, was the fourth most visited social networking site in the United States as of 2013. Pinterest offers groups an opportunity to reach people through sharing images and videos. Groups can “like” pins and “re-pin” content that aligns with their message, and they can collaborate with others to build a “Me+contributors” board and re-pin other nonprofits. Groups might consider creating boards to visually highlight different aspects of their work.

Matt Petronzio offers 10 Strategies for Nonprofits on Pinterest: <http://mashable.com/2012/03/02/pinterest-strategies-non-profits/>.

Instagram

Instagram helps organizations develop their online personality, gain loyalty from followers, and create awareness of their efforts. Groups can start by following and interacting with other Instagram members, posting and tagging photos, and sharing content across other social networking sites.³⁸⁵

Photo sharing websites

Flickr and other photo sharing sites are often overlooked, but they can be an important part of an organization’s social media campaign. Flickr offers an alternative, graphically oriented way to develop content that can be shared across most social media platforms. Flickr allows for higher-quality image uploads and offers copyright protection. Use relevant, search-friendly titles and descriptions to provide meaning and context to the images. The description section of the image offers an opportunity to link to core content such as a website, article, or report.³⁸⁶

Content Calendars Help Organizations Organize and Coordinate Social Media Activities

Content calendars are tools that allow organizations to plan and organize content and posts for Facebook, Twitter, and other social media platforms.

- Hootsuite is a popular social media content-management dashboard that works for Facebook, Twitter, and many other social media platforms. Visit <https://hootsuite.com/> for more information.
- A free Facebook content calendar created specifically for non-profits is available here:

³⁸⁵ Justin J. Ware, *5 Instagram Tips for Nonprofits*, The Social Side of Giving, Dec. 1, 2011, <http://socialphilanthropy.wordpress.com/2011/12/01/5-instagram-tips-for-nonprofits/>.

³⁸⁶ Karissa Van Hoover, *Don't Overlook the Visual Component of Social Media Marketing*, Social Brite, Oct. 28, 2011, <http://www.socialbrite.org/2011/10/28/6-reasons-to-use-flickr-for-your-next-media-campaign/>.

<http://www.nonprofitfacebookguy.com/free-downloadable-facebook-content-calendar/>.

- PostPlanner is another Facebook app that helps people to plan and post content: <http://www.postplanner.com/app-features/>. Groups can use it to schedule Facebook posts in advance for consistent posts at optimal times, targeting specific demographics.

ii. Developing a Social Media Strategy

After learning more about the different social media platforms and their strengths, a civil society organization should develop a social media strategy. A group's social media strategy should align with the group's goals. Does the group want to educate others, engage in advocacy, fundraise, or find volunteers? What type of content does the group want to share? The organization should develop a strategy that uses a variety of social media tools to meet its goals, keeping in mind its target audience for accomplishing each goal and how it can best reach that audience. Framing is a critical component of social media messaging. See page 107 for more information on framing.

General Social Media Tips

These steps provide a blueprint for advocates seeking to use social media as a tool to meet organizational goals.

- **Segment audiences.** If a group can better identify and understand its targeted audiences, it will be better able to tailor its message to specific groups.
- **Establish a message arc.** A message arc is a narrative that accomplishes a goal with the intended audience. If a group's goal is to make a neutral or unaware audience care about its cause, an effective message arc would start with something short and emotional (e.g., a YouTube video) to capture the audience's interest, followed with contextual facts to provide a deeper understanding, and then a small action step followed by a larger one.
- **Fine tune messaging and provide a call to action.** Emotions and personal stories can be effective in grabbing attention. An effective strategy then follows with facts to establish the group's credibility and to help the audience understand the issue. Messaging should define the solution and provide an explicit call to action.
- **Be conversational.** Groups can use social media to engage with stakeholders, solicit feedback from audiences, and exchange ideas. Open-ended content can encourage conversation. Listen to and monitor the conversations that you initiate.
- **"Brand" the organization** consistently in all social media platforms.
- **Understand supporter networks.** Social media makes it easy for supporters to share a group's message with their social network and can help the group build a larger audience. Seek out your communities and become an active member by engaging in meaningful conversations.
- **Promote** the group's social media profile on the organization's website, through email lists, in email signature files, and at organizational events.
- **Update** sites regularly.
- **Gather data** to track which messages are effective.

- **Use caution** when sharing content. Once an organization publishes something on social media, it becomes part of the organization’s “permanent record.”

For example, if a group wanted to increase the number of people making donations to support the group’s work, it could consider a three-pronged strategy: (1) upload a YouTube video storytelling campaign accompanied by a donate button and call to action; (2) use Facebook and Twitter to link to the video and to promote a landing page for the group’s fundraising website; and (3) post a photo series through Instagram, Pinterest, and Facebook with a request for funds.³⁸⁷

Civil society groups that send out emails to supporters should use every message to highlight social media content and contacts. A common practice is to include at the end of each email links to recent blog posts as well as social media buttons for the organization’s social media platforms.



End of an email message from The Advocates for Human Rights

Use Social Media Analytics to Measure Impact and Refine Strategies

Groups can track social media metrics to determine which efforts are most effective in advancing the group’s goals. Analytics can also determine the sources of traffic and user demographics. The social media platforms themselves provide analytics, and there are also third-party providers:

- Google Analytics for WordPress: <http://wordpress.org/plugins/google-analytics-for-wordpress/>
- Google Analytics in Blogger: <http://www.bloggerplugins.org/2011/10/google-analytics-in-blogger.html>
- Facebook Insights: <https://www.facebook.com/insights/>
- Twitter Analytics: <https://analytics.twitter.com>
- YouTube Analytics: <https://support.google.com/youtube/answer/1714323>
- Vimeo Advanced Statistics: <http://vimeo.com/stats>
- Hootsuite Custom Analytics: <https://hootsuite.com/features/custom-analytics>
- NodeXL: <http://nodexl.codeplex.com/>

For more information on social media analytics, consult:

- Campaign analytics, from 10 Tactics: <https://archive.informationactivism.org/en/basic5>
- 5 Essential Spreadsheets for Social Media Analytics, from Mashable: <http://mashable.com/2012/02/09/social-media-analytics-spreadsheets/>
- Measuring the Value of Social Media, from the Minnesota Council of Nonprofits: http://www.minnesotanonprofits.org/events-training/technology-and-communications-conference/handouts/Measuring_Value.pdf.

³⁸⁷ GiveMN, “Using Social Media to Raise More Money,” GiveMN—Using Social Media to Raise More Money.pdf.

iii. Social Reporting

Social reporting is often a hybrid of social media fact-finding and advocacy. Social reporting refers to the practice of using social media sites to report in real-time from a live event to share information and have conversations with an online audience. The tool allows advocates to reach a larger audience than the people who are physically present at an event and even to engage more actively than is often possible during an event. Before the event, depending on the size of the event and number of volunteers available to “social-report,” groups can set a strategy for what they hope to cover, how they plan to cover it, and which platforms they plan to use. At the event, organizers should ensure that participants have WiFi connectivity and should set up a workspace for the individual or team responsible for generating the social media posts. After the event, groups should consider posting a blog with consolidated live updates and a general summary. For a comprehensive guide to best practices in social reporting from conferences, workshops, and other events, consult <http://www.slideshare.net/cgxchange/social-reporting-from-conferences-workshops-and-other-events-a-practical-guide-for-organisers>.

Social Media for Human Rights Documentation and Fact-finding

Reporting on human rights abuses in real time, using new technologies, helps to increase public awareness of human rights incidents, speeds up response times, and provides human rights advocates access to new data and evidence of human rights abuses. Social media tools enable advocates to share information on human rights abuses in real time through SMS messages and peer-to-peer (P2P) social media sites like Twitter, email, and smart phones. Mobile phones equipped with camera and video recorders and access to the Internet have increased the “speed, depth and scope of human rights monitoring.”³⁸⁸ The tools have facilitated reporting from areas that human rights fact-finders have historically not been able to access, allowing advocates to circumvent government restrictions on access to emerging human rights situations. Social media as a fact-finding tool carries the risk that the information provided is inaccurate, but social media technologies lower the barriers to human rights advocacy collaboration. Social media can help provide warning signs of an impending human rights crisis.³⁸⁹ Amnesty International provides a helpful analysis of the value of social media for human rights monitoring and documentation: <http://blog.amnestyusa.org/middle-east/twitter-to-the-rescue-how-social-media-is-transforming-human-rights-monitoring/>.

iv. Social Media and Fundraising

General Social Media Fundraising Tips³⁹⁰

- **Be specific** with the “ask.” The group should introduce itself, tell people why they should contribute to the cause, and keep the ask concise, yet personal.
- **Tell a story.** 56% of people who support nonprofits online say that compelling storytelling is what motivates them to take action on behalf of nonprofits.²²
- **Create urgency.** The more **successful** fundraising campaigns last 4 to 6 weeks; people are more inclined to donate if the fundraising drive has a shorter time frame and a greater sense of urgency.
- **Be creative** and have a little fun with the campaign to encourage donations and distinguish the organization from other efforts.

³⁸⁸ Philip Alston and Colin Gilliespie, *Global Human Rights Monitoring, New Technologies and the Politics of Information*, 23 *European Journal of International Law* 1089, 1112 (2012). Also available online at <http://ejil.oxfordjournals.org/content/23/4/1089>.

³⁸⁹ *Ibid.*

³⁹⁰ Lindsay Oberst, “8 Tools to Help Fundraise for a Cause,” accessed Jan. 22, 2014, <http://www.socialbrite.org/2013/03/04/how-to-fundraise-for-causes/>.

- **Share** with friends and family and encourage supporters to do the same. Share across all social media sites.
- **Be persistent.**

Other Social Media Fundraising Sites

- **Socialbrite** offers a helpful PDF of the various fundraising sites: <http://socialbrite.s3.amazonaws.com/fundraising-tools.pdf>.
- **Kickstarter** has revolutionized fundraising.³⁹¹ The site, which charges a 5% fee for all donations, allows individuals and organizations seeking funds to post a video, set a fundraising goal, and post a link to a fundraising page that accepts credit card donations from supporters: <http://www.kickstarter.com/>.
- **Razoo** allows groups to create organizational pages and a widget to post directly onto the group's website to accept donations through Razoo. Razoo charges a 4.9% fee for donations, deposits money directly into the recipient-organization's bank account, and allows recipients to send out thank you emails to donors.
- **Indiegogo** is a crowdfunding platform that can be used to raise money and awareness for issues around the world through international campaigns. It is free to join; all that is needed is a bank account. Most contributions through Indiegogo are not tax-deductible.

Social Media as a Fundraising Tool

Online fundraising sites, like Kickstarter, and social media platforms that aren't primarily fundraising sites, like Twitter, have revolutionized fundraising. Between 2006 and 2011, these sites helped groups collect nearly one billion dollars in donations, more than doubling all online donations that had been generated before that time. Each year these "crowd-funding" sites generate more funding for causes. Between 2011 and 2012, the amount of money raised increased by 91%, with the average donation at \$59.³⁹²

Organizations that use social fundraising tools increase their fundraising by 40% over organizations that do not use those tools. Despite these benefits, fewer than half of fundraisers utilized social media for fundraising in 2011.³⁹³

Groups need to have a broad social media presence in order to make the most of tools that allow organizations to accept online donations. Sites like Facebook and Twitter allow users to share the online fundraising pages offered through sites like Kickstarter or Razoo and help generate web traffic, increasing donations. One recent study found that organizations that used Twitter to share their social fundraising sites generated ten times the donations of organizations that did not. Another study found that one "share" of a fundraising page on Facebook led to 5 visits to the fundraising page and was worth \$10.87 in donations.³⁹⁴

The best approach to using social fundraising tools depends on the type and size of the fundraising campaign as well as the size and budget of the organization. Socialbrite helps advocates determine which approach is the best for their organization and describes 24 different ways to raise money online: <http://www.socialbrite.org/2010/05/28/19-tools-for-fundraising-with-social-media/>.

³⁹¹ Christopher Wallace, "5 Tips on How to Stand Out in Crowdfunding World," accessed Jan. 22, 2014, <http://www.socialbrite.org/2013/02/13/how-to-raise-1-million-on-kickstarter/>.

³⁹² Justin J. Ware, *5 Instagram Tips for Nonprofits*, *supra* note 385.

³⁹³ Frank Barry, "The Power of Social Fundraising and Friends Asking Friends," accessed Jan. 22, 2014, <http://www.npengage.com/social-media/the-power-social-fundraising-and-friends-asking-friends-infographic/>.

³⁹⁴ Social Brite, "What Social Fundraising Means for your Nonprofit," accessed Jan. 22, 2014, <http://www.socialbrite.org/2011/09/12/what-social-fundraising-means-for-your-nonprofit/>.

Chapter 8. Accountability



In the context of human rights, accountability is the ability to hold individual human rights violators responsible for their actions. Accountability mechanisms include criminal prosecutions, civil lawsuits, and non-judicial systems such as truth commissions, ombudsmen, national human rights commissions, and intergovernmental body actions. In considering whether to pursue a particular accountability mechanism, advocates should consider:

- Effectiveness of the mechanism;
- Purpose of the mechanism and potential outcomes;
- Role of victims; and
- Resources required to use the mechanism.

The effectiveness of an accountability mechanism often depends on the strength of the legal system in which it is situated. Advocates seeking to hold perpetrators of human rights abuses accountable should consider which legal system offers the best opportunity for accountability: the legal system of the country where the human rights violations occurred; the domestic laws of another country; an international tribunal; or another international mechanism.

Advocates should also consider their objectives, the types of outcomes that various accountability mechanisms can offer, and the likelihood that those outcomes will happen. Judicial mechanisms typically focus on punishing

perpetrators or compensating victims. Truth commissions generally focus on creating a public record of the human rights violations and making recommendations to governmental bodies. Ombudsmen and national human rights commissions can be uniquely situated to advance institutional reforms within government structures. Suspension or expulsion from intergovernmental organizations often targets a country's leadership, but it can have consequences for others in the country as well.

Primary accountability mechanisms: Purposes and potential outcomes

	Criminal Prosecution	Civil Lawsuit	Truth Commission	Ombudsman / National Human Rights Commission
Purpose	Punish the perpetrator, give the perpetrator and others a strong incentive not to commit similar crimes, reform the perpetrator if possible, satisfy public desire for retribution. ³⁹⁵	Provide redress for human rights violations by compelling compensation or restitution. ³⁹⁶	Investigate a pattern of human rights violations over a period of time, ³⁹⁷ encourage a divided community to heal through open dialogue. ³⁹⁸	Protect and promote human rights, ensure that human rights laws are effectively applied, protect people from rights abuses committed by public officials or institutions. ³⁹⁹
Possible outcomes	<ul style="list-style-type: none"> Perpetrator goes to jail Perpetrator performs community service Perpetrator pays a fine Perpetrator pays compensation to victim Perpetrator is stripped of citizenship, deported 	<ul style="list-style-type: none"> Perpetrator pays restitution to victim Perpetrator compensates victim for medical bills, property damage Perpetrator compensates victim for pain and suffering 	<ul style="list-style-type: none"> A final report Evidentiary record Recommendations for reform Recommendations for criminal prosecutions or other sanctions for perpetrators Recommendations for individual or community reparations for victims 	<ul style="list-style-type: none"> Conciliation or other alternative dispute resolution, possibly resulting in compensation to victim Institutional reform to prevent future human rights violations Referral to judiciary

Victim participation can be vital to the success of any accountability mechanism. But in some accountability mechanisms, such as criminal prosecutions, victims often play a subsidiary role, and participate in the process only if the prosecutor calls them as witnesses. On the other hand, a victim may be able to initiate a civil suit against a perpetrator and have greater control over the judicial process. Victim-centered processes such as truth commissions allow victims to present testimony and may give them the opportunity to confront perpetrators

³⁹⁵ William Geldart, *Introduction to English Law* (D.C.M. Yardley ed., 9th ed. 1984), 146.

³⁹⁶ *Ibid.*

³⁹⁷ Priscilla B. Hayner, *Truth Commissions: A Schematic Overview*, 88 *International Review of the Red Cross* 295, 295 (June 2006). Also available online at http://www.icrc.org/eng/assets/files/other/irrc_862_hayner.pdf.

³⁹⁸ International Criminal Court, "Reparation for Victims," accessed Jan. 8, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/victims/reparation/Pages/reparation%20for%20victims.aspx.

³⁹⁹ Paulo Sergio Pinheiro & David Carlos Baluarte, *National Strategies, Human Rights Commissions, Ombudsmen, and National Action Plans* (UNDP, 2000) 2–3. Also available online at http://hdr.undp.org/sites/default/files/paulo_serjio_pinheiro_.pdf.

directly. Ombudsmen and national human rights commissions may prioritize working with the victim and perpetrator to seek a voluntary resolution of the dispute that may include compensation, an apology, or structural reforms to prevent future abuses.

The resources required to use each mechanism depend in part on whether the mechanism already exists. Most countries have judicial systems that are capable of overseeing criminal and civil prosecutions. In most countries, the government takes the lead role in pursuing criminal prosecutions. But advocates may need to lobby prosecutors to take on a case or initiate a private prosecution. Civil litigation can be expensive and time-consuming, but sometimes legal aid organizations or NGOs assist in the process. If a truth commission is already in place, participation is usually free of charge, and volunteers can assist victims in preparing their testimony. It can be expensive and time-consuming, however, to initiate a truth commission process where there is none in place. Finally, if a country has an established ombudsman office or national human rights commission, individuals can usually use these mechanisms without charge. Staff, volunteers, or civil society organizations often are available to assist victims in preparing a complaint and going through the process.

The rest of this chapter is structured according to the legal system in which the accountability mechanism is situated: the legal system of the country where the human rights violations occurred; the domestic laws of other countries; and international mechanisms such as criminal tribunals and intergovernmental organizations.

A. Accountability in the Country Where the Human Rights Violations Occurred

Activists who are concerned about grave human rights violations may automatically think about pursuing accountability with an international tribunal such as the International Criminal Court. But the country where the human rights violations occurred is often the best place to pursue accountability. Witnesses and victims may be able to participate directly, evidence may be readily accessible, and civil society can participate in and monitor the process. A domestic accountability mechanism can also take into account cultural sensitivities and can offer remedies that are in the long-term best interest of the victims and the country. Domestic procedures may be able to take action more quickly and cost-effectively than international mechanisms. And there is usually little question that a domestic court has jurisdiction to hear a case involving a human rights violation that took place in that country or a perpetrator who is a national of the country. Moreover, many international accountability mechanisms require that advocates first exhaust domestic remedies, or demonstrate that attempting to exhaust domestic remedies would be futile. So a domestic action may set the necessary groundwork for initiating a proceeding in an international forum.

If domestic courts are independent and the judiciary functions well, judicial mechanisms may offer accountability in the form of criminal prosecutions or civil lawsuits. In the alternative, many countries have national human rights institutions (NHRIs), including ombudsmen and national human rights commissions. Some countries also have anti-corruption commissions, which can be effective if the human rights violation involves corruption on the part of a police officer or government official. After periods of protracted human rights violations, some countries establish truth commissions.

If domestic mechanisms are weak, politicized, corrupt, or non-existent,⁴⁰⁰ or if the laws are insufficient to hold perpetrators accountable, activists can engage in advocacy and push for legal reform, or they can work to create new institutions or strengthen existing mechanisms.

⁴⁰⁰ International Council on Human Rights Policy, "Preface," in *Hard Cases: Bringing Human Rights Violators to Justice Abroad* (Versoix: International Council on Human Rights Policy, 1999).

In many cases, these accountability mechanisms can be mutually reinforcing. For example, after a perpetrator is found guilty in criminal court, the victim may choose to sue the perpetrator for damages. A civil order for protection can form the basis for a criminal prosecution if a perpetrator of domestic violence violates the protection order. A truth commission may uncover evidence that is later used in a criminal prosecution. And if a perpetrator is not cooperative, an ombudsman may have the authority to refer a victim's complaint to a criminal prosecutor or a civil court for further action.

i. Criminal prosecution

Many countries have enacted domestic laws to impose criminal sanctions on people who commit human rights violations. Some have also criminalized grave human rights abuses such as genocide and crimes against humanity. Most countries have ratified the Geneva Conventions and incorporated the treaties into their domestic laws. These conventions require State Parties to "promulgate national laws that prohibit and provide for prosecution and punishment of grave breaches [of the Geneva Conventions], either by enacting laws to that effect or by amending existing laws."⁴⁰¹ Some countries use the definitions of genocide, crimes against humanity, and war crimes as they are written in the Rome Statute, or incorporate the Rome Statute's definitions by reference.⁴⁰² Other countries have modified the language of the Rome Statute to reflect their own national experiences. For example, Argentina includes forced hunger as a grave violation of international law, and the Democratic Republic of Congo increased from 15 to 18 the age applicable to the war crime of forcible recruitment.⁴⁰³ If a country has not enacted such legislation, civil society organizations can lobby for such laws to be adopted.

The Geneva Conventions and the Rome Statute

The Geneva Conventions and their Additional Protocols contain critical rules prohibiting human rights violations during times of armed conflict. They protect prisoners of war, civilians, wounded soldiers, medics, and aid workers. They contain rules to deal with "grave breaches" of the conventions and call on all countries to hold violators accountable.

In 1998, the international community met in Rome, Italy, to finalize a draft statute to establish a permanent international criminal court. The Rome Statute established the International Criminal Court and defined four core crimes: genocide, crimes against humanity, war crimes, and the crime of aggression.⁴⁰⁴

Even without specific laws on the books to punish perpetrators, many countries' existing criminal laws cover human rights violations. For example, even if a country's criminal code does not expressly criminalize intimate partner violence, it may criminalize assault. A victim of domestic violence could therefore seek to hold the perpetrator accountable by pushing for criminal prosecution under existing assault laws. Perpetrators of genocide may be held accountable through multiple indictments under a country's laws that punish murder, even if the country's criminal code does not directly address the crime of genocide.

⁴⁰¹ *Analysis of the Punishments Applicable to International Crimes (War Crimes, Crimes Against Humanity and Genocide)*, in *Domestic Law and Practice*, 90 *International Review of the Red Cross*, 461, 467 (June 2008).

⁴⁰² Joseph Rikhof, *Fewer Places to Hide? The Impact of Domestic War Crimes Prosecutions on International Community*, Dublin: 22nd International Conference of the International Society for the Reform of Criminal Law, Jul. 2008 (paper presentation), 10 (citing Cryer and Bekou, *International Crimes and ICC Cooperation in England and Wales*, 5 *JICJ* 441-459 (2007)). Available online at: <http://www.isrcl.org/Papers/2008/Rikhof.pdf>.

⁴⁰³ *Ibid.*, 11.

⁴⁰⁴ Rome Statute of the International Criminal Court, accessed Feb. 3, 2014, <http://www.un.org/law/icc/index.html>; International Committee of the Red Cross, "The Geneva Conventions of 1949 and their Additional Protocols," accessed Feb. 3, 2014, <http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/>.

In 2009, for example, the Special Criminal Court of the Supreme Court of Peru found former president Alberto Fujimori guilty of grave human rights violations. He was sentenced to 25 years in prison and ordered to pay \$90,000 in reparations to the victims. Fujimori was convicted under ordinary criminal laws that were in place at the time of his crimes: aggravated murder, assault, and kidnapping.⁴⁰⁵

If a country has demonstrated a willingness to prosecute human rights violators, advocates in the country's diaspora can sometimes play an important role in pressing for extradition of the perpetrators. When Chilean authorities arrested Fujimori, "Peru's human rights community immediately mobilized to support the [Peruvian Government's] extradition request."⁴⁰⁶ The Chilean human rights community, along with international NGOs, collaborated with relatives of the victims and other Peruvian activists to organize public events and protest marches in Chile and to lobby Chilean officials with legal arguments in favor of extradition.⁴⁰⁷

Ex-post Facto Laws

Ex-post facto laws attempt to punish individuals for actions that were not crimes when the action was taken. Criminal prosecutions in these circumstances are often thrown out because they violate due process.

Domestic courts in the countries of the former Yugoslavia have taken up war crimes prosecutions from the International Criminal Tribunal for the former Yugoslavia (ICTY), discussed in Part C of this chapter. Staff from the ICTY trained the local judiciaries, gave them access to the ICTY's evidence, and transferred cases to be prosecuted domestically. The domestic court in Bosnia and Herzegovina, for example, "has indicted 77 persons for involvement in war crimes, including 11 which had been transferred from the ICTY as part of its completion strategy and has convicted 27 persons, including four

which had been transferred from the ICTY."⁴⁰⁸ The courts of Kosovo have a similar arrangement and have begun five trials. "In Serbia, 57 persons have been charged in 12 separate indictments for international crimes since 2005, of which 22 have been convicted at first instance by the War Crimes Chamber of the Belgrade District Court (although 14 of these convictions were later overturned by the Serb Supreme Court), five persons have been acquitted and the remainder of the cases are ongoing."⁴⁰⁹ In Croatia, 1428 persons have been accused between 1991 and 2006 of crimes involving international criminal law and 611 of those persons have been convicted, although a number of those convictions took place in absentia.⁴¹⁰

Criminal prosecution of human rights violators in a country's domestic courts is not always a satisfactory option. First, domestic courts might be weak or corrupt, making conviction unlikely. Moreover, if a country's legal system is weak, other countries may be unwilling to extradite human rights violators who have fled the country. Second, prosecutors may refuse to pursue a case. Governments often lack the political will to prosecute their own citizens, especially when they are high-level officials.⁴¹¹ In such circumstances, some countries' judicial systems allow individuals to pursue "private prosecutions," but these proceedings can be costly and time-consuming. Third, sentences may be too lenient.⁴¹² Fourth, defendants may be able to avoid conviction by relying on domestic amnesty laws, immunity doctrines, or other legal defenses. Finally, even if a criminal proceeding results in a

⁴⁰⁵ Jo-Marie Burt, *Guilty as Charged: The Trial of Former Peruvian President Alberto Fujimori for Human Rights Violations*, *International Journal of Transitional Justice* 384, 400 (2009). Also available online at <http://ijtj.oxfordjournals.org/content/3/3/384.full.pdf>.

⁴⁰⁶ *Ibid.*, 395.

⁴⁰⁷ *Ibid.*, 395–96.

⁴⁰⁸ Rikhof, *Fewer Places to Hide? The Impact of Domestic War Crimes Prosecutions on International Community*, *supra* note 402, at 7.

⁴⁰⁹ *Ibid.*, 13.

⁴¹⁰ *Ibid.*, 14.

⁴¹¹ International Criminal Court, "Rome Statute of the International Criminal Court," accessed Jan. 8, 2014, <http://www.un.org/law/icc/index.html>.

⁴¹² Human Rights Watch, "Chile Country Summary, January 2012," accessed on Jan. 9, 2014, http://www.hrw.org/sites/default/files/related_material/chile_2012.pdf.

conviction, underlying structures that allowed the human rights violation to happen may persist, and victims may not receive reparations or other forms of redress.

Rwanda Strengthens its Legal System to Facilitate Prosecution of Genocide Perpetrators

Nations have begun taking on their own prosecution of human rights violators, sometimes acting in conjunction with the international community to bring justice. For instance, in April 1994, Rwanda plunged into genocidal chaos. It took just 100 days for 800,000 people to be massacred. In the aftermath of the tragedy, many perpetrators fled the country.

Because Rwanda had not yet formally criminalized genocide, Rwandan prosecutors could not bring cases immediately.⁴¹³ Since 1996, however, Rwandan courts have been administering justice to perpetrators of the 1994 genocide.⁴¹⁴ Perpetrators who remained in the country faced prosecution. For example, over 11,000 regional makeshift “gacaca” courts were created to prosecute lower level criminals accused of genocide.⁴¹⁵ As the International Center for Transitional Justice reports, “Nearly 800,000 Rwandans—one-fifth of the adult population—have been accused before these courts.”⁴¹⁶ These gacaca courts operated in parallel with the International Criminal Tribunal for Rwanda, discussed in Part C of this chapter.



A gacaca court in session

Initially, the international community expressed concern about the fairness of the Rwandan criminal proceedings, and many countries denied Rwandan requests for extradition of perpetrators.⁴¹⁷ Conditions have changed in the last few years. In 2011, the United States deported two genocide suspects to Rwanda.⁴¹⁸ Courts in Canada, Norway, and Sweden have also upheld extradition orders. During a trial in Britain, a prosecutor noted that these developments signaled “a sea change

in the view of the global community and the international courts” of Rwanda’s legal system.⁴¹⁹ Rwanda has worked to establish a legal system that complies with international standards, and as a result it has been able to pursue its own prosecutions of the perpetrators of the Rwandan genocide.

⁴¹³ Alison Des Forges, Timothy Longman, “Legal Responses to Genocide in Rwanda,” accessed Jan. 9, 2014, <http://faculty.vassar.edu/tilongma/justice.html>.

⁴¹⁴ Organic Law No. 08/96 of August 30, 1996, on the Organization of Prosecutions for Offences constituting the Crime of Genocide or Crimes against Humanity committed since October 1, 1990, 1996 (In that year Rwanda passed Organic Law No. 08). Also available online at <http://www.preventgenocide.org/law/domestic/rwanda.htm>.

⁴¹⁵ Lara Waldorf, *Transitional Justice and DDR: The Case of Rwanda*, (International Center for Transitional Justice, June 2009). Also available online at http://ictj.org/sites/default/files/ICTJ-DDR-Rwanda-CaseStudy-2009-English_0.pdf.

⁴¹⁶ *Ibid.*

⁴¹⁷ Institute for Security Studies, *Rwanda’s New Genocide Cases a Milestone for Domestic Prosecutions of International Crimes* (Feb. 9, 2012). Also available online at <http://www.issafrica.org/iss-today/rwandas-new-genocide-cases-a-milestone-for-domestic-prosecutions-of-international-crimes>.

⁴¹⁸ *US Extradites Rwandan Convicted Over Genocide*, StarAfrica.com, Dec. 22, 2011. Also available online at <http://en.starafrica.com/news/us-extradites-rwandan-convicted-over-genocide-210136.html>.

⁴¹⁹ Estelle Shirbon, *Rwandan Genocide Suspects Face UK Extradition Battle*, Reuters, June 5, 2013. Also available online at <http://uk.reuters.com/article/2013/06/05/uk-britain-rwanda-genocide-idUKBRE95417A20130605>.

Chilean Legal System Overcomes Amnesty Defenses to Prosecute Perpetrators of Enforced Disappearances



Augusto Pinochet

In 1990, dictator General Augusto Pinochet stepped down as the leader of Chile and handed power over to publicly elected president Patricio Aylwin. Human rights trials were slow to begin because of extensive protections, including amnesty declarations, that Pinochet's government had put into place before it handed over power.⁴²⁰ Courts held that because enforced disappearance is an ongoing crime, the time-limited amnesty declarations do not apply.⁴²¹

According to one NGO monitoring human rights trials in Chile, "more than three-quarters of the 3,186 documented killings and 'disappearances' under military rule have been heard by courts or are now under court jurisdiction."⁴²² "245 former security service agents had been convicted and sentenced in the final instance."⁴²³

ii. Civil litigation

If criminal prosecution is not possible or would not align with an organization's accountability goals, such as obtaining compensation for victims, civil litigation in the country where the human rights violations occurred may be another alternative. There are several kinds of civil suits that may be available. First, a victim, class of victims, or another party may bring a civil suit for damages against human rights violators. Second, a party may bring suit to seek injunctive relief, such as a court order compelling a defendant to cease certain conduct or to perform certain actions. Defendants in such cases may be governmental or non-governmental actors. Third, a victim may be able to seek a civil order for protection to restrict a perpetrator's conduct under threat of criminal penalties if the perpetrator disregards the order. In countries where it is a viable option, civil litigation can help achieve accountability for human rights abuses by providing redress for victims, stopping ongoing human rights violations, deterring future violations, and sometimes setting legal precedents on important human rights issues.⁴²⁴

⁴²⁰ Human Rights Watch, *Discreet Path to Justice: Chile, Thirty Years After The Military Coup* (Human Rights Watch, Sept. 2003). Also available online at <http://www.hrw.org/legacy/background/america/chile/chile0903.pdf>.

⁴²¹ Fannie Lafontaine, *No Amnesty or Statute of Limitations for Enforced Disappearances: The Sandoval Case Before the Supreme Court of Chile*, *Journal of International Criminal Justice* 409–84 (2005). Also available online at http://www.academia.edu/2476878/No_Amnesty_or_Statute_of_Limitation_for_Enforced_Disappearances_The_Sandoval_Case_before_the_Supreme_Court_of_Chile.

⁴²² Human Rights Watch, *World Report 2012: Chile*, <http://www.hrw.org/world-report-2012/chile>

⁴²³ *Ibid.*

⁴²⁴ Richard J. Wilson and Jennifer Rasmusen, *Promoting Justice: A Practice Guide to Strategic Human Rights Lawyering*, *International Human Rights Law Group* 51, 60 (2001). Also available online at http://www.globalrights.org/site/Docserver/PJ_3-4.pdf.

Amparo

Many Latin American countries have a specific judicial remedy—called a writ of *amparo*—for the protection of constitutional rights. Article 25 of the American Convention on Human Rights recognizes the right to an *amparo* remedy:

“Everyone has the right to simple and prompt recourse, or any other effective recourse, to a competent court or tribunal for protection against acts that violate his fundamental rights recognized by the constitution or laws of the state concerned or by this Convention, even though such violation may have been committed by persons acting in the course of their official duties.”

For more information on *amparo* proceedings, consult Allan R. Brewer-Carías, *Constitutional Protection of Human Rights in Latin America: A Comparative Study of Amparo Proceedings* (2008), and Axel Tschentscher & Caroline Lehne, *The Latin American Model of Constitutional Jurisdiction: Amparo and Judicial Review*, http://www.servat.unibe.ch/jurisprudencia/lit/Amparo_SSRN.pdf.

Civil society organizations that are considering litigation as a human rights strategy should consider:⁴²⁵

- **Potential consequences.** If courts are corrupt or have a negative view of human rights, litigation could be unsuccessful. Moreover, unsuccessful litigation could set a negative precedent for future cases. And in some cases, litigants could face retribution or other adverse consequences for taking a case to court.
- **Costs.** Potential costs may include court costs and legal fees, as well as the cost of preparing evidence for trial. Some jurisdictions may allow a prevailing party to recover legal fees, and sometimes attorneys will agree to take on a case *pro bono* or on a contingency basis. But in some cases a party that brings a lawsuit and loses may be ordered to pay the other side’s legal fees and other expenses. If funds are limited, groups may want to consider whether there is another forum in which those funds could go further and result in a broader impact.
- **Objectives.** Different legal systems or types of lawsuits may offer different potential remedies, and the decisions of some courts may have a broader or narrower effect than others. Moreover, if an organization or individual wants to bring an individual communication to an international or regional human rights mechanism (see Chapters 9 and 10), those mechanisms often require exhaustion of domestic remedies. So even if domestic litigation does not offer a promising outcome, it may be worthwhile to go through the process in order to preserve the option of pursuing other remedies at a later time.

Consult an Attorney

Each country’s civil justice system is different, so advocates should consult with a local attorney to determine whether civil litigation could be a viable means to address their human rights concerns.

***Amici curiae*—“Friends of the court”**

Civil society groups and individuals may try to shape the outcome of litigation without initiating their own lawsuits. Many domestic courts and regional human rights mechanisms (see Chapter 10) have procedures to recognize an individual or group as an *amicus curiae*, or “friend of the court.” Attorneys who represent the parties to a case generally focus on the facts and arguments that are most beneficial to their clients. But a case may have broader implications for other people or groups not participating directly in the litigation. An *amicus curiae* can highlight these broader concerns by submitting an *amicus*

⁴²⁵ *Ibid.*, 24–29.

curiae brief to the court identifying relevant legal arguments, factual evidence, or other documentation. Sometimes a party to a case will recruit civil society organizations, professors, or law school clinics to submit supportive *amicus* briefs.

Impact litigation

One potential avenue for remedying human rights violations is “impact litigation.” Impact litigation, sometimes referred to as strategic litigation, can be defined as “selecting and bringing a case to the courtroom with the goal of creating broader changes in society.”⁴²⁶ Impact litigation is therefore designed to have an impact beyond the actual outcome of the case. Organizations may decide to engage in impact litigation as part of a broader campaign on a human rights issue. Impact litigation can be used to:

- Amend law or policy that violates international human rights norms;
- Identify gaps between domestic legal standards and international human rights standards; or
- Ensure that laws are correctly applied and enforced.⁴²⁷

Impact litigation has been used for many years in the United States and other countries to advance civil rights, women’s rights, the rights of indigenous peoples and other minorities, the rights of prisoners, the rights of children, housing rights, and many other issues. Impact litigation has led to momentous legal decisions related to free speech, school integration, and gay rights, for example. But, like any legal strategy, impact litigation holds potential risks as well as benefits.

Potential Benefits of Impact Litigation	Potential Risks of Impact Litigation
<ul style="list-style-type: none"> • Win a desired outcome for the client or group of clients • Set an important precedent • Achieve change for similarly situated people • Spark large-scale policy changes • Empower clients • Raise awareness • Encourage public debate • Highlight the lack of judicial independence or fairness on a given issue • Provide an officially sanctioned platform to speak out on an issue when the government may be trying to silence voices on that issue 	<ul style="list-style-type: none"> • Burden the client with a protracted and complicated process • Provoke political backlash • Risk client safety, especially if client belongs to a marginalized group • Privilege political or strategic goals over goals of the individual client • Set a bad precedent • Undermine judiciary by highlighting lack of independence or power on a given issue • Expend valuable resources on a case that may be very difficult to win

Regardless of the broader goals, the client’s interest must be paramount in any litigation process. An organization considering impact litigation must make full disclosures to the client about the process, the risks, and the likelihood of success.

Civil society organizations should consider whether impact litigation is appropriate

Effective impact litigation requires that many variables align in the right way and at the right time. Impact litigation is more than a simple legal case—it is an entire strategy and involves assessing the characteristics of the client,

⁴²⁶ Child Rights Information Network, *Children’s Rights: A Guide to Strategic Litigation*, by Patrick Geary (2009), 6. Also available online at http://www.crin.org/docs/Childrens_Rights_Guide_to_Strategic_Litigation.pdf.

⁴²⁷ Barbara Bedont and Mona Nekoara, “Public Policy Advocacy: Strategic Litigation and International Advocacy,” Stanhope: Public Interest Law Initiative and Columbia University Budapest Law Center, Aug. 20, 2003. (PowerPoint presentation, presented by Ed Rekosh), http://www.essex.ac.uk/armedcon/story_id/000698.pdf.

the legal issues, media interest, partnerships with other groups, costs, timing, and other factors. The following are some key questions to consider before starting litigation:⁴²⁸

- Is there a legal issue involved that exemplifies or relates to a broader social problem?
- Is it possible for a court decision to address the problem effectively?
- Are the cause and the key issue in the case easy to understand for the media and the general public?
- What are the client's goals and how can the lawyer help the client clarify those goals?
- What level of commitment does the client have to achieving the goals?
- Beyond litigation, are there other methods of achieving the client's goals? Are other methods more or less likely to be effective?
- What are the strengths and weaknesses of the client's case? What are the strengths and weaknesses of the opposition's position? What are the legal claims and how strong are those claims on the merits, within the system, and in public opinion?
- Who are the opponents and what is the estimated level of commitment to that opposition? Who are their supporters?
- Who else has an interest in the issue and what are those interests? Will they support the client's position?
- Will those with an interest be willing to work together on reaching a solution? Are other actors with a less defined interest able to support the issue?
- How difficult will it be to prove the case? How costly will it be?
- Is there an alternative or compromise that will meet the needs of both sides? Is exploration of other avenues an option?
- How likely is it that the court will look favorably on the action?
- What political repercussions will follow a win or loss in court?
- Is the legal theory clear and simple, and is the remedy easy to implement?

There also are some specific questions to consider when bringing a case on behalf of a group of similarly situated victims, often called a "class action":⁴²⁹

- Are the interests of the individual members of the group complementary or conflicting?
- Is there a benefit to a group claim rather than multiple individual claims?
- Does the group have a recognized leader or procedures for making decisions as a whole? How are decisions for the group reached?
- Is the group complete? Are key members of the group missing? Why? Will their absence affect the claim?

A critical consideration in human rights cases pivots on how the courts respond to and interpret international law in the jurisdiction. A given case may focus on asking the courts to enforce international law domestically, or it may involve framing a violation of domestic law as a violation of international human rights, or it may push the boundaries of both.

Ethical considerations unique to impact litigation

One of the defining features of impact litigation is that broader policy goals drive the litigation. In some cases, these broader goals may conflict with the interests of an individual client. This possibility raises important ethical considerations that must be extensively examined and discussed with the client from the beginning of the litigation. In particular, Richard Wilson and Jennifer Rasmusen emphasize that if the litigation is unlikely to

⁴²⁸ Wilson and Rasmusen, *Promoting Justice: A Practice Guide to Strategic Human Rights Lawyering*, *supra* note 424, at 61–62; Child Rights Information Network, *Children's Rights: A Guide to Strategic Litigation*, *supra* note 426, at 8.

⁴²⁹ Wilson and Rasmusen, *Promoting Justice: A Practice Guide to Strategic Human Rights Lawyering*, *supra* note 424, at 62.

succeed but there are reasons to pursue it nonetheless, there are some critical questions that must be explored:⁴³⁰

- Should the lawyer encourage the client to continue the case despite a low likelihood of success?
- Will the client willingly sustain a long appeals process if necessary?
- Does the organization have sufficient financial support to see the case to conclusion?
- Can the case be presented to an international human rights body?
- If the particular court is likely to be adverse, is it possible to change venue?
- Do the potential auxiliary benefits of a failure outweigh the burden of litigation the client faces?
- What extra-legal work can be done to support the case? Will such efforts undermine the judicial process? Will such efforts create a sustainable change?
- Does the lawyer have a duty to explain the overall strategy to the client regardless of whether it affects his or her case? Is it ethical to fail to inform the client of an auxiliary reason for the strategy? Is there ever a justifiable reason for a client to be kept uninformed of the strategy?

Procedural considerations for impact litigation

Courts have formal rules of procedure that govern when, where, and how cases can be brought. Generally, cases must be filed within a certain amount of time after the human rights violation arose. These time limitations are called a “statute of limitations” and they can vary based on the particular human rights violation and based on the applicable local laws. Advocates must understand the statutes of limitation for a particular claim before investing too much time and energy into an impact litigation strategy.

Procedural rules also control who can bring a case to court. In U.S. courts, for example, only an individual or entity that has been directly harmed can bring a case to court, although in some cases groups may be able to bring claims on behalf of their members.

Procedural rules can also draw cases out for many years. Protracted litigation may have positive or negative consequences from a strategic standpoint, and often it is very difficult to predict how long litigation will last. In particular, if advocates anticipate losing the case but plan to bring an appeal, they should prepare for a lengthy litigation campaign.

Logistical considerations for impact litigation

Impact litigation requires two key logistical components: (1) an experienced lawyer or legal team to represent the client; and (2) funding to cover the costs associated with the case. Both of these components can seem like insurmountable barriers, especially if an organization has never engaged in litigation before. But there are many ways to find an effective lawyer and to raise funds to cover costs. In some countries, lawyers make a commitment to do *pro bono* work as a certain percentage of their legal practice. Depending on the type of case and the jurisdiction, advocates may find that there is a network of *pro bono* lawyers who are experienced in handling such work. *Pro bono* attorneys in one country can assist a lawyer bringing a lawsuit in another country by researching relevant laws and drafting arguments. Also, advocates may be able to draw on the support of law schools that have legal clinics to handle impact litigation.⁴³¹ Depending on the applicable laws, attorneys may agree to take on a case on a contingency basis. The best strategy is to reach out to organizations that have experience with impact litigation in the country. Many organizations in the United States and internationally have extensive experience with conducting impact litigation on various human rights issues, including the American Civil Liberties

⁴³⁰ Wilson and Rasmusen, *Promoting Justice: A Practice Guide to Strategic Human Rights Lawyering*, *supra* note 424, at 63.

⁴³¹ Child Rights Information Network, *Children’s Rights: A Guide to Strategic Litigation*, *supra* note 426, at 30–31.

Union, the Center for Constitutional Rights, the NAACP, and INTERIGHTS. Lawyer networks, such as bar associations, and legal aid organizations may also have experience with impact litigation. If an organization is considering impact litigation, the first step should be gathering input from these or similar groups.

Pro bono Legal Representation

Pro bono publico is a Latin phrase meaning voluntary or reduced-rate professional work undertaken as a public service. The legal profession in some countries, including the United States and the United Kingdom, has a strong tradition of *pro bono* work. And international law firms based in these countries may extend their *pro bono* work to other countries where they have offices. In some countries, however, legal professionals do not engage in *pro bono* work or do so only sporadically.

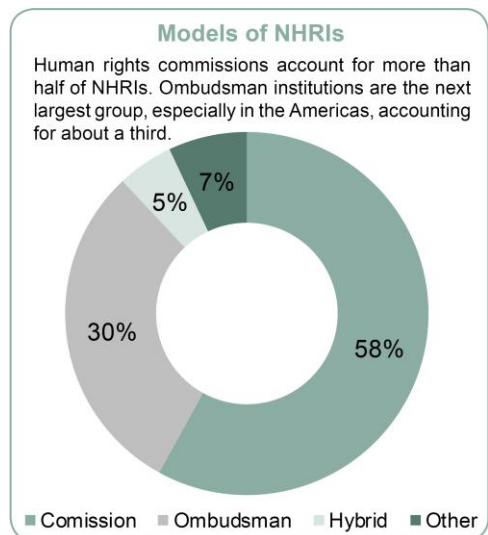
- For information about global *pro bono* opportunities and resources, barriers to *pro bono* work, and other considerations, consult *A Survey of Pro Bono Practices and Opportunities in 71 Jurisdictions* (August 2012), prepared by the law firm Latham & Watkins LLP for the Pro Bono Institute: <http://www.probonoinst.org/wpps/wp-content/uploads/a-survey-of-pro-bono-practices-and-opportunities-in-71-jurisdiction-2012.pdf>.
- The Pro Bono Institute provides resources, training, and technical support for attorneys and law firms interested in *pro bono* work, and features a Global Pro Bono Project: <http://www.probonoinst.org/>.
- The Public International Law and Policy Group (PILPG) is a non-profit, global *pro bono* law firm that provides free legal assistance to developing countries that are emerging from conflict: <http://publicinternationallawandpolicygroup.org/>.

iii. National Human Rights Institutions

National human rights institutions (NHRIs) are governmental bodies with a constitutional or legislative mandate to protect and promote human rights.⁴³² They are part of the government apparatus and are funded by the government, but they operate and function independently from government.⁴³³ NHRIs play an important role in ensuring that internationally accepted human rights standards result in improved enjoyment of human rights on the ground within their respected countries. They may take the following forms:

- Human rights commission;
- National ombudsman; or
- Commission focused on particular rights, such as non-discrimination.⁴³⁴

Today there are over 100 NHRIs around the world.⁴³⁵ These institutions vary considerably in terms of “mandate and mode of



⁴³² International Coordinating Committee for National Human Rights Institutions (ICC), “Roles and types of NHRIs,” accessed Jan. 15, 2014, <http://nhri.ohchr.org/EN/AboutUs/Pages/RolesTypesNHRIs.aspx>.

⁴³³ Office of the High Commissioner for Human Rights, *National Human Rights Institutions: History, Principles, Roles, and Responsibilities* (New York and Geneva: United Nations, 2010), 13. Also available online at http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf.

⁴³⁴ International Coordinating Committee for National Human Rights Institutions (ICC), “Roles and types of NHRIs,” *supra* note 432.

⁴³⁵ International Coordinating Committee for National Human Rights Institutions (ICC), “A brief history of NHRIs,” accessed Jan. 15, 2014, <http://nhri.ohchr.org/EN/AboutUs/Pages/HistoryNHRIs.aspx>.

establishment” and in the “willingness of the State concerned to be subjected to human rights standards.”⁴³⁶

Ombudsman offices that deal only with citizen complaints about maladministration, without an express mandate to address human rights matters, are not NHRIs. Moreover, some NGOs have the word “commission” in their name, but an NGO is not an NHRI.⁴³⁷

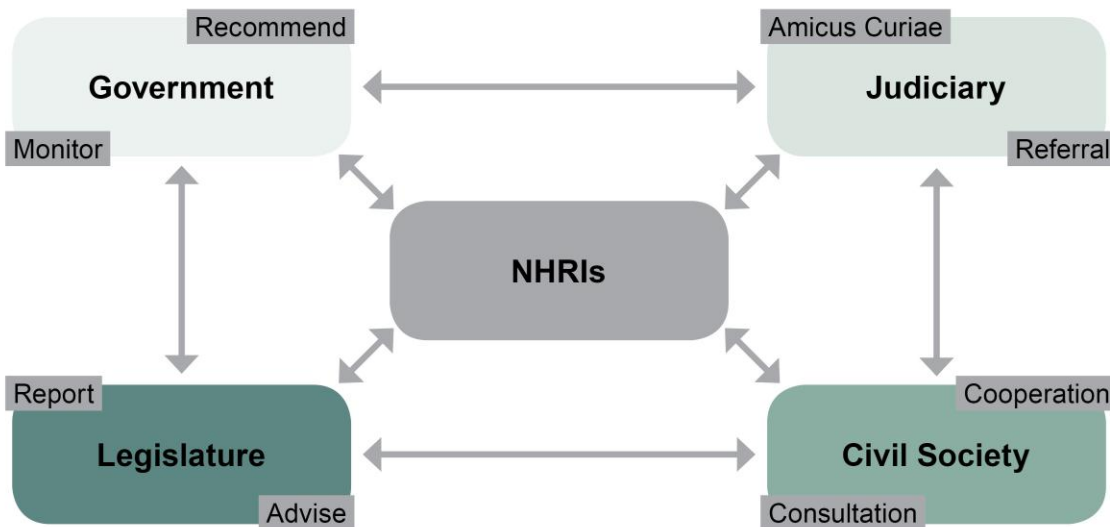
a. Function of NHRIs

Regardless of form, NHRIs play a key role in linking international and domestic human rights systems. They serve multiple functions including:

- Monitoring their government’s human rights policy in order to detect shortcomings and recommend and facilitate improvement;
- Promoting and educating about human rights in order to inform and engage the public; and
- Receiving, investigating, and resolving complaints from both individuals and groups on alleged human rights violations.⁴³⁸

NHRIs fulfill these functions at different levels in both government and civil society:

Functions of National Human Rights Institutions



Source: Adapted from *OHCHR-UNDP Toolkit for Collaboration with National Human Rights Institutions*, p. 4. OHCHR. (December 2010) http://www.unssc.org/web2/free_resources/UNDP-OHCHRToolkit/index.html

NHRIs can be a valuable component of a country’s human rights protection and accountability framework. Most governments recognize and publicly acknowledge the importance of protecting human rights, but the government

⁴³⁶ Chris M. Peter, “Human Rights Commissions in Africa: Lessons and Challenges,” in *Human Rights in Africa: Legal Perspectives on their Protection and Promotion*, ed. Dr. Anton Bösl and Dr. Joseph Diescho (Namibia: Konrad Adenauer-Stiftung, 2009). Also available online at http://www.kas.de/wf/doc/kas_16347-1522-2-30.pdf?090512114605.

⁴³⁷ Office of the High Commissioner for Human Rights, *National Human Rights Institutions: History, Principles, Roles, and Responsibilities*, *supra* note 433, at 15.

⁴³⁸ Office of the High Commissioner for Human Rights, *OHCHR-UNDP Toolkit for Collaboration with National Human Rights Institutions* (New York and Geneva: United Nations, December 2010), 4. Also available online at http://www.unssc.org/web2/free_resources/UNDP-OHCHRToolkit/pdf/UNDP-UHCHR-Toolkit.pdf.

itself is often the perpetrator of human rights abuses. An ombudsman or human rights commission can function as an independent and neutral office that examines and investigates possible human rights violations.

In countries with both an ombudsman and a human rights commission, the ombudsman's mandate often focuses on public administration, and the human rights commission independently investigates and addresses alleged human rights abuses.

b. International Standards and Accreditation for NHRIs

Because NHRIs vary greatly in authority and structure, the Center for Human Rights convened an international workshop in 1991 to develop minimum standards for these bodies.⁴³⁹ Known as the "Paris Principles," these standards were subsequently adopted by the UN General Assembly and provide measures against which NHRIs can be assessed as to their ability to effectively fulfill their role. Standards include the need for: a broad-based mandate; guarantees of independence; autonomy from government; pluralism of members and staff; adequate powers of investigation; and adequate resources.⁴⁴⁰

The International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC) accredits NHRIs based on their compliance with the Paris Principles.⁴⁴¹ The committee uses three levels of accreditation, each of which affords members a different level of participation in the international system.⁴⁴²

- **"A" Voting members** comply fully with the Paris Principles. NHRIs with "A" status can participate as full voting members in the international and regional work and meetings of NHRIs. They may also hold office in the ICC Bureau. They may participate in sessions of the UN Human Rights Council and may take the floor under any agenda item.
- **"B" Observer members** are not fully compliant with the Paris Principles or have not submitted sufficient documentation for the ICC to make an accreditation determination. NHRIs with "B" status may participate as observers in the international and regional work and meetings of NHRIs. They cannot vote or hold office within the ICC Bureau. The United Nations does not give them NHRI badges, and they do not have the right to take the floor during sessions of the UN Human Rights Council.
- **"C" Non-members** do not comply with the Paris Principles. NHRIs with "C" status have no rights or privileges with the ICC or in UN forums. They may, at the invitation of the ICC, attend ICC meetings.

As of February 2013, 69 NHRIs are accredited with "A" status.⁴⁴³ See Appendix H for a list of these NHRIs.

Regional NHRI Networks

Regional and subregional NHRI networks and associations are an important complement to the international system. Regional NHRI networks have the right to participate in the UN Human Rights Council as observers and to engage with its various mechanisms. They also enable NHRIs from the same region to meet and discuss issues of common concern.

⁴³⁹ Office of the High Commissioner for Human Rights, *Fact Sheet No. 19: National Institutions for the Promotion and Protection of Human Rights* (United Nations, Apr. 1993), appendix. Also available online at <http://www.ohchr.org/Documents/Publications/FactSheet19en.pdf>.

⁴⁴⁰ Asia Pacific Forum, "What are national human rights institutions?" accessed Jan. 15, 2014, <http://www.asiapacificforum.net/establishment-of-nrhi/what-is-an-nhri>.

⁴⁴¹ UN Office of the High Commissioner for Human Rights, OHCHR and NHRIs, <http://www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx>.

⁴⁴² International Coordinating Committee for National Human Rights Institutions (ICC), ICC Sub-Committee on Accreditation (SCA), accessed Jan. 15, 2014, <http://nhri.ohchr.org/EN/AboutUs/ICCAccreditation/Pages/default.aspx>.

⁴⁴³ UN Office of the High Commissioner for Human Rights, OHCHR and NHRIs, <http://www.ohchr.org/en/countries/nhri/pages/nhrimain.aspx>.

The Network of African National Human Rights Institutions: www.nanhri.org

The Network of National Institutions for the Promotion and Protection of Human Rights in the Americas: www.americaddhh.org

The Asia-Pacific Forum of National Human Rights Institutions: www.asiapacificforum.net

The European Network of National Institutions for the Promotion and Protection of Human Rights: www.scottishhumanrights.com/international/eurochair

For a global directory of NHRIs, consult the website of the International Coordinating Committee for National Human Rights Institutions: nhri.ohchr.org/EN/Contact/NHRIs/Pages/default.aspx.

c. Types of NHRIs

Ombudsmen

An ombudsman is typically a public sector entity responsible for supervising conduct of government officials and agencies.⁴⁴⁴ “The Ombudsman is an independent governmental official who receives complaints against government agencies and officials from aggrieved persons, who investigates, and who, if the complaints are justified, makes recommendations to remedy the complaints.”⁴⁴⁵

And if a country’s judicial system is difficult to use, the Ombudsman system can be a more accessible alternative because “its form is not rigidly fixed and can be varied to suit the characteristics and needs of each country.”⁴⁴⁶ Moreover, in many countries, if “[e]xisting mechanism[s]—courts, legislatures, the executive, administrative courts, and administrative agencies—are not sufficient to cope with the grievances of the aggrieved . . . [t]he Ombudsman system provides an informal, independent, and impartial public official who, with relative speed and without cost to the complainant, investigates, with access to governmental records, and recommends relief when the complaint is justified.”⁴⁴⁷

An ombudsman system may also be a good alternative when a country’s judiciary lacks independence. In El Salvador and Guatemala, for example, the “ombudsman’s office was established in settings in which it would have been sheer fantasy to imagine the judiciary playing its assigned role in the separation of powers. . . . [E]l Salvador and Guatemala’s] judicial systems are politically dependent and dominated by the political environments in which they are embedded.”⁴⁴⁸ Because the governments of both countries had a history of authoritarianism, “[t]he relative failure of judicial reform . . . accentuated the role that the ombudsman might play in protecting human rights and pressuring the public authorities to be answerable to the law.”⁴⁴⁹ In El Salvador, the law establishing the ombudsman office “empowers the institution to defend a long list of human rights, and specifies that all public officials must cooperate fully with its inquiries and respond to its recommendations.”⁴⁵⁰ The ombudsmen’s offices in both countries have given individuals a means to help curb human rights violations.

⁴⁴⁴ Linda C. Reif, *The Ombudsman, Good Governance, and the International Human Rights System* (Leiden, The Netherlands: Koninklijke Brill NV, 2004), 2.

⁴⁴⁵ Bernard Frank, *The Ombudsman and Human Rights*, 22(3) *Administrative Law Review*, 467 (Apr. 1970).

⁴⁴⁶ *Ibid.*, 491.

⁴⁴⁷ *Ibid.*, 491.

⁴⁴⁸ Michael Dodson and Donald Jackson, *Horizontal Accountability in Transitional Democracies: The Human Rights Ombudsman in El Salvador and Guatemala*, 46(4) *Latin American Politics and Society*, 2 (Winter 2004).

⁴⁴⁹ *Ibid.*

⁴⁵⁰ *Ibid.*

One limitation of an ombudsman's office is that the ombudsman does not typically have enforcement power. "A hallmark of the ombudsman is that the office does not have the power to make decisions that are legally binding on the administration—the executive/administrative branch is free to implement, in whole or in part, or ignore the ombudsman's recommendations."⁴⁵¹ In some cases, the ombudsman may be able to encourage human rights progress in other ways. If, in response to an individual's complaint, an ombudsman completes an investigation and concludes that the government has acted inappropriately, "some ombudsmen may enter into informal negotiations or mediation with the government department concerned to try to persuade the government to accept and implement [their] recommendations."⁴⁵² The ombudsman system is compulsory for the governing body,⁴⁵³ so the Ombudsman may be able to negotiate for progressive human rights solutions.

Human Rights Commissions

There are several differences between a traditional ombudsman and a human rights commission. First, the Ombudsman is one individual with a team of support staff. Human rights commissions, on the other hand, are multi-member committees that often encompass a wide range of social groups and political leanings. Second, ombudsmen typically carry out their mandate using an individual complaint and investigation system. Human rights commissions have a specific mandate that may include research, documentation, training, or education on human rights issues. Human rights commissions also may be established to handle more specific duties, such as issues relating to minority populations, refugees, children, women, or disenfranchisement. Some, but not all, human rights commissions also receive and act on individual complaints.

d. NHRIs and Civil Society

As independent entities established by the government, NHRIs occupy a unique place between government and civil society, often serving as a bridge between rights-holders and responsible authorities. "[NHRIs] link the responsibilities of the State to the rights of citizens and they connect national laws to regional and international human rights systems."⁴⁵⁴ Because NHRIs do not have a defined constituency or vested interest, they are ideally situated to provide a balanced message on human rights issues. They can also encourage dialogue and facilitate cooperation between rights-holders and the government by providing a neutral meeting point.

NHRIs rely heavily on civil society participation to carry out their mandates to monitor and investigate human rights issues and to educate the public. In general, civil society can support the work of NHRIs by enhancing their effectiveness and deepening their public legitimacy, ensuring they reflect public concerns and priorities, and giving them access to expertise and valuable social networks.⁴⁵⁵

Civil society can engage with NHRIs in many ways:

- **NHRI Formation.** If a country does not have an NHRI, civil society can be instrumental in advocating for one and in helping to create one through meaningful consultations with the government. Such consultations should be broad-based, including a diverse range of civil society groups and other stakeholders. Government should ensure that the outcomes of these consultations are incorporated into the design and mandate of an NHRI. If a country has an NHRI with less than "A" status, civil society can advocate for improvements to the NHRI and better compliance with the Paris Principles.

⁴⁵¹ Reif, *The Ombudsman, Good Governance, and the International Human Rights System*, *supra* note 444, at 18.

⁴⁵² *Ibid.*, 16.

⁴⁵³ *Ibid.*

⁴⁵⁴ Office of the High Commissioner for Human Rights, *National Human Rights Institutions: History, Principles, Roles, and Responsibilities*, *supra* note 433, at 13.

⁴⁵⁵ International Council on Human Rights Policy, *Assessing the Effectiveness of National Human Rights Institutions* (Versoix, Switzerland: ICHRP, 2005), 15. Also available online at <http://www.ohchr.org/documents/publications/nhrien.pdf>.

- **Monitoring.** Civil society can monitor the effectiveness of an NHRI by submitting reports on the NHRI's performance to the International Coordinating Committee of National Institutions for Promotion and Protection of Human Rights. For a checklist for assessing conformity with the Paris Principles, consult page 50 of *National Human Rights Institutions: History, Principles, Roles, and Responsibilities*: http://www.ohchr.org/Documents/Publications/PTS-4Rev1-NHRI_en.pdf.
- **Membership.** NHRIs should have independent and diverse membership, representative of the society's social, ethnic, and linguistic composition. Appointment mechanisms should be open and transparent. Many NHRI appointment procedures allow civil society organizations to nominate members and include representatives from a broad cross-section of civil society groups on the selection panel.⁴⁵⁶
- **Formal and informal consultation.** To ensure formal diversity, an NHRI may have an advisory board nominated by, or broadly representative of, civil society organizations. Moreover, NHRIs should consult regularly with civil society to better understand what the public wants and needs. Civil society should proactively engage with the NHRI and use formal and informal means to improve access to the government's policymaking process.
- **Complaints.** Civil society can assist victims of human rights violations in accessing NHRI resources and can support them through the process of filing a complaint. Making a complaint to an NHRI is usually a straightforward process, and no attorney is needed. Many NHRI offices have staff who can assist with completing the necessary forms. If a country has both an ombudsman and a human rights commission, it is important to determine which NHRI is the most appropriate accountability mechanism for a particular human rights violation. Advocates should know, however, that if they have already raised the same complaint in litigation, the NHRI will typically refrain from considering the matter. Approaching the ombudsman or human rights commission first, however, does not preclude a person from later bringing a court action.⁴⁵⁷
- **Outreach.** Civil society can facilitate an NHRI's outreach by establishing or making use of networks to spread awareness of the NHRI's role and functions as a mechanism for redress and by providing education to the public on the role of the NHRI.
- **National Human Rights Action Plan.** Many governments establish a national human rights action plan outlining a strategy to implement obligations under human rights instruments. Governments often consult NHRIs when developing these strategies. The NHRI may also develop its own plan to promote respect for human rights. In either case, civil society can consult with the NHRI as the strategies are being drafted and can work with the NHRI, the government, and other stakeholders to develop time-bound, benchmarked objectives.
- **Active partnership.** Civil society organizations can also help implement some NHRI programs and activities. Civil society can provide expertise and a bridge into communities that may distrust the NHRI, perceiving it to be a body representing the government. Strategic alliances establishing a rational division of labor between civil society organizations and the NHRI can make both parties more effective.⁴⁵⁸

⁴⁵⁶ Ibid., 15.

⁴⁵⁷ Reif, *The Ombudsman, Good Governance, and the International Human Rights System*, *supra* note 444, at 15.

⁴⁵⁸ Commonwealth Human Rights Initiative, *Civil Society and National Human Rights Institutions*, 13 *International Journal of Not-For-Profit Law* 5 (2011). Also available at http://www.icnl.org/research/journal/vol13iss4/special_1.htm.

Uganda Human Rights Commission Engages with Civil Society to Propose Legal Reforms to Address Domestic Violence



The Parliament of Uganda had undertaken wide consultations before drafting a proposed Domestic Relations Bill that was meant, among other things, to help protect family members from domestic violence. The Uganda Human Rights Commission, however, wanted to make sure that the draft law was subjected directly to a human rights analysis.

To assist with this analysis, the commission convened a stakeholders meeting to review the draft law carefully in light of national and international human rights standards. Stakeholders made a series of very specific recommendations on the draft legislation, identifying ways to fill gaps and otherwise improve the bill.

The assistance of stakeholders in the commission's review of the draft law not only reduced the commission's workload, but also contributed to the creation of a highly credible set of recommendations with the support of a broad cross-section of Ugandan civil society. The commission included the recommendations in its Annual Report.⁴⁵⁹

iv. Anti-Corruption Commissions

Some countries have established anti-corruption commissions to hear complaints and hold corrupt officials accountable. Scholars have identified four types of anti-corruption commissions: (1) universal commissions, which have investigative, preventative, and educational functions, and are accountable to the country's executive; (2) investigative commissions, which are also accountable to the country's executive; (3) parliamentary commissions; and (4) multi-agency commissions, which include several distinct offices that operate in tandem to fight corruption.⁴⁶⁰

If the country where the human rights violation occurred has an anti-corruption commission with investigative or prosecutorial powers, and if the human rights violation relates to a government official's misuse of power for private gain, advocates may want to consider whether to approach the commission with a complaint.⁴⁶¹ Some anti-corruption commissions allow individuals to make anonymous complaints.⁴⁶²

Many anti-corruption commissions are criticized as dysfunctional or ineffective. Some lack independence or do not have budgetary support to conduct investigations. Some do not have the authority to refer corruption cases for prosecution.⁴⁶³

v. Truth Commissions

Truth commissions are official, temporary bodies that conduct non-judicial inquiries to uncover the truth about past, widespread abuses and to encourage a community to heal through open dialogue. Truth commissions

⁴⁵⁹ Office of the High Commissioner for Human Rights, *OHCHR-UNDP Toolkit for Collaboration with National Human Rights Institutions*, *supra* note 438, at 228.

⁴⁶⁰ World Bank Institute, *Anti-Corruption Commissions: Panacea or Real Medicine to Fight Corruption?*, by John R. Heilbrunn (2004), 3. Also available online at <http://wbi.worldbank.org/wbi/Data/wbi/wbicms/files/drupal-acquia/wbi/Anti-Corruption%20Commissions%20by%20John%20Heilbrunn.pdf>.

⁴⁶¹ *Core Elements of Anti-Corruption Commissions: Legal Memorandum* (Aug. 2013) 1, 3. Also available online at <http://www.mreza-mira.net/wp-content/uploads/Anticorruption-Commissions-2013.pdf>.

⁴⁶² *Ibid.* 10.

⁴⁶³ World Bank Institute, *Anti-Corruption Commissions: Panacea or Real Medicine to Fight Corruption?*, *supra* note 460, at 1.

permit both victims and perpetrators to speak in front of their communities about their personal experiences and observations during the relevant time period and what they have experienced since that time.⁴⁶⁴ A successful commission aims “to understand the origins of past conflict and the factors that allowed abuses to take place, and to do so in a manner that is both supportive of victims and inclusive of a wide range of perspectives.”⁴⁶⁵

Truth commissions generally conclude with a final report describing the information gathered during the process, making factual findings, and recommending next steps for a broad range of stakeholders. A truth commission’s report can form the basis for future criminal proceedings, but it can also lead to civil remedies (such as financial reparations) and institutional reform.

Truth commissions can be less costly than criminal tribunals, but they rely heavily on the engagement of civil society as well as individual victims. Direct victim participation is essential to the process. Truth commissions can operate more quickly than formal legal proceedings, but they lack some of the procedural safeguards that enhance accuracy and impartiality in formal legal proceedings.

If a truth commission is already in place, it should be relatively easy for victims and civil society organizations to get involved in the process. Diaspora organizations may advocate for a formal role for the diaspora in the process. For example, after the Truth and Reconciliation Commission of Liberia was established, the commission signed a memorandum of understanding with The Advocates for Human Rights, giving that organization the responsibility for taking statements from Liberians in the diaspora.⁴⁶⁶

Diaspora Engagement with the Liberian Truth and Reconciliation Commission.

The Truth and Reconciliation Commission of Liberia (LTRC) was the first of its kind to make a systematic effort to engage a diaspora population in all aspects of the truth commission process. The LTRC partnered with The Advocates to facilitate diaspora involvement in outreach and education, statement taking, report writing and the first official public hearings of a truth commission ever held in a diaspora.

The Advocates and the LTRC established a Diaspora Project Advisory Committee of Liberians from across the United States to advise the process. The Advocates partnered with Liberian community organizations in the United States, United Kingdom, and Ghana to obtain input and advice about making the LTRC process as accessible as possible for Liberians in the diaspora. The LTRC public hearings held in St.



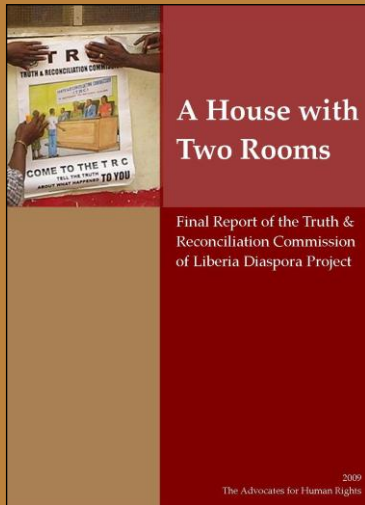
Members of the Liberian diaspora attending a training for LTRC volunteers

⁴⁶⁴ “Truth and Reconciliation Process in Argentina,” accessed Jan. 17, 2014, at 1, <http://www.advocates.ca/assets/files/presentations/The-Truth-and-Reconciliation-Process-in-Argentina.pdf>.

⁴⁶⁵ Priscilla B. Hayner, *Truth Commissions: A Schematic Overview*, 88 *International Review of the Red Cross* 295, 296 (June 2006). Also available online at http://www.icrc.org/eng/assets/files/other/irrc_862_hayner.pdf.

⁴⁶⁶ The Advocates for Human Rights, “Memorandum of Understanding,” in *A House with Two Rooms: Final Report of the Truth and Reconciliation Commission of Liberia Diaspora Project* (2009) 575–83.

Paul, Minnesota from June 10–14, 2008 also provided an important opportunity for Liberians in the diaspora to present their experiences and recommendations directly to the LTRC. The hearings were webcast live in order to make them more accessible to the public.



Between 2006 and 2009, The Advocates took statements from more than 1600 Liberians in the diaspora (approximately 9% of the total gathered by the LTRC) and recorded testimony from 31 witnesses at the public hearings. *A House with Two Rooms*, The Advocates' final report to the LTRC, documents the “triple trauma” experienced by members of the diaspora during their flight through Liberia and across international borders, while living in refugee camps in West Africa, and in resettlement in the United States and Europe. In addition, the report summarizes the views of Liberians in the diaspora on the root causes of the conflict and their recommendations for systemic reform and reconciliation.

For more information about The Advocates' work with the LTRC, see: Laura Young and Rosalyn Park, “Engaging Diasporas in Truth Commissions: Lessons from the Liberia Truth and Reconciliation

Commission (LTRC) Diaspora Project,” 3 *International Journal of Transitional Justice* 341 (2009).

If a truth commission is not yet in place, the International Centre for Transitional Justice can offer technical advice about the appropriate parameters for a commission's mandate.⁴⁶⁷ Truth commissions can be time-consuming and costly. Liberia's Truth and Reconciliation Commission, for example, was established in 2005 and concluded its work in 2009.⁴⁶⁸ The diaspora component alone required more than \$10 million in in-kind contributions and *pro bono* hours donated over a two-year period.⁴⁶⁹

vi. Legal Reform

If accountability mechanisms in a country are weak or non-existent, advocates can play an important role in the long-term development of human rights by pressing for structural reforms. If a country's judiciary lacks independence or its NHRIs are weak, for example, it may be necessary to revise the country's constitution to strengthen these institutions. Countries that are considering revisions to their constitutions typically solicit input from civil society during the process to ensure that the amendments have popular support. Civil society groups, including groups in the diaspora, should look for opportunities to participate in these consultations and give concrete recommendations. They may want to seek the assistance of *pro bono* attorneys who can examine best practices in other countries and make appropriate recommendations based on experiences elsewhere.

If the laws in a country are not sufficiently strong or specific to hold perpetrators of human rights violations accountable, civil society can advocate for legal reform. Advocates can support ratification of the Rome Statute and ensure that their country's criminal code contains penalties for the core crimes of genocide, crimes against humanity, war crimes, and the crime of aggression. Civil society organizations can use monitoring and

⁴⁶⁷ Institute for Justice and Reconciliation, *Critical Lessons in Post-Conflict Security in Africa: The Case of Liberia's Truth and Reconciliation Commission*, by Ozonnia Ojielo, (2010) 8. Also available online at <http://www.ijr.org.za/publications/pdfs/IJR%20AP%20OP%201%20General%20Liberia%20WEB.pdf>.

⁴⁶⁸ The Advocates for Human Rights, “Chapter 1,” *supra* note 466.

⁴⁶⁹ *Ibid.*, 4.

documentation tools (see Chapters 3–6) to identify other needs for legal reform. For example, most countries have criminal penalties for rape, but in some countries prosecutors do not bring charges when a man rapes his wife. Civil society groups can document the gap between law and practice and then advocate for legal reforms to ensure that all perpetrators of rape are held accountable.

B. Accountability Under the Domestic Laws of Other Countries

In some circumstances, advocates can use the legal system of one country to hold accountable people who have perpetrated human rights violations in another country. A country's legal system may allow criminal prosecution of human rights violators or civil lawsuits. In some circumstances, travel restrictions alone may provide some accountability for perpetrators.

i. Criminal Prosecution

Under most legal systems, there is a preference for prosecuting people in the jurisdiction where the alleged crimes occurred. And most legal systems recognize a presumption against one country's laws having extra-territorial effect. For these reasons, governments rarely prosecute people for human rights violations that took place in another country.⁴⁷⁰ But in some circumstances, especially if the human rights violation is particularly serious, countries will prosecute perpetrators for crimes committed in other countries or for related violations of their own laws.

a. Prosecutions for violation of immigration laws

Throughout the world, immigration authorities act as gatekeepers to identify and screen potential international criminals.⁴⁷¹ Many countries prohibit war criminals and other perpetrators of serious human rights abuses from entering their territory. The Refugee Convention of 1951 prohibits State Parties from granting asylum or refugee status to any person if "there are serious reasons for considering that [the person] has committed a crime against peace, a war crime, or a crime against humanity."⁴⁷² Visa application materials and other immigration forms often require disclosure of military training, membership in and affiliation with political groups and militias, involvement with acts of genocide, and other information that would help the government identify and refuse entrance to a suspected perpetrator. Perpetrators who omit this information can later face criminal prosecution for immigration fraud.

Ethiopians in the Diaspora Play Key Role in Criminal Conviction of Torturer for Immigration Fraud

In May 2011, outside an Ethiopian restaurant in Aurora, Colorado, former Ethiopian political prisoner Kiflu Ketema recognized a man as his former prison guard and torturer. The man insisted that Ketema had confused him with someone else. Ketema, however, was certain the man was his torturer, and he alerted U.S. Immigration and Customs Enforcement (ICE). ICE arrested the man, who later admitted to having illegally entered the United States and having been illegally naturalized there.

Alemu Worku was tried and convicted in October 2013. Even though the trial ostensibly focused on Worku's immigration infractions, the witnesses' accounts described his role as torturer in Ethiopia. Ketema and other Ethiopian-Americans testified about the torture and killings in an Ethiopian prison

⁴⁷⁰ David Petrasek, International Council on Human Rights, *Hard Cases: Bringing Human Rights Violators to Justice Abroad* (1999) 35. Also available online at www.ichrp.org/files/reports/5/201_report_en.pdf.

⁴⁷¹ Human Rights Watch, "Universal Jurisdiction in Europe: The State of Art," vol. 18 no. 5(D) *Human Rights Watch* (June 2006), 6.

⁴⁷² UN General Assembly, Convention Relating to the Status of Refugees, 1951, Art. 1(f)(a).

Worku supervised. Worku was found guilty of immigration fraud and stripped of citizenship. He may later face extradition to Ethiopia.⁴⁷³

As a result of Worku's case, more Ethiopian-Americans are collaborating to identify other suspected torturers who have immigrated to the United States and report them to ICE. They have launched a website to gather and share information: <http://yatewliid.com/>.

Immigration Authorities Around the World Rely on Diasporans to Help Track Down Perpetrators

U.S. Immigration and Customs Enforcement's Human Rights Violators and War Crimes Unit

Individuals residing in the United States can seek redress for certain violations of human rights through the U.S. Immigration and Customs Enforcement's Human Rights Violators and War Crimes Unit.⁴⁷⁴ The Unit has three missions:

- (1) to prevent the admission of foreign war crimes suspects, persecutors, and human rights abusers into the United States;
- (2) to identify and prosecute individuals who have been involved in and/or responsible for the commission of human rights abuses across the globe; and
- (3) to remove, whenever possible, those offenders who are located in the United States.⁴⁷⁵

Persons with information regarding foreign nationals who have committed war crimes or human rights abuses can contact ICE regarding these individuals and their whereabouts by calling the ICE tip line at 1-866-DHS-2-ICE.⁴⁷⁶

Danish Red Cross and Danish immigration authorities reach out to asylum seekers

The Danish Red Cross and Danish immigration authorities have jointly urged asylum seekers to help identify perpetrators of international crimes by creating a multilingual pamphlet detailing how to report information about crimes or information about a potential violator present in Denmark.⁴⁷⁷

⁴⁷³ Bruce Finley and Tom McGhee, *How an Ethiopian torturer hid in Denver for 7 years in plain sight*, Denver Post, Oct. 20, 2013, http://www.denverpost.com/news/ci_24347284/how-an-ethiopian-torturer-hid-denver-7-years; Tom McGhee, *Ethiopian Immigrant Admits Being Guard Accused of Killing Prisoners*, Denver Post, July 10, 2013, http://yatewliid.com/index_htm_files/082411_101113%20Higher%2015%20Kefalegn%20Alemu%20All%20Documents.pdf.

⁴⁷⁴ U.S. Immigration and Customs Enforcement, "The Human Rights Violators & War Crimes Unit," accessed Oct. 20, 2013, <http://www.ice.gov/human-rights-violators/>.

⁴⁷⁵ *Ibid.*

⁴⁷⁶ *Ibid.*

⁴⁷⁷ Human Rights Watch, "Universal Jurisdiction in Europe: The State of Art," *supra* note 471, at 6–7. In 2013, the Danish Special International Crimes Office has been merged with another prosecution office to form the State Prosecutor for Serious Economic and International Crime. The current address is Kampmannsgade 1, 1604 København v, Denmark. The new telephone number for the office is +45 72 68 90 00 and the fax is +45 45 15 01 19. Email correspondence from Andreas Myllerup Laursen to The Advocates for Human Rights, Jan. 28, 2014.

The Special International Crimes Office investigates genocide, war crimes, crimes against humanity and other serious crimes such as homicide, torture or acts of terror committed abroad. If you have any information about such serious crimes, be that as a victim, witness or otherwise and if you know that the perpetrator is in Denmark please contact the Special International Crimes Office.

+45 33 30 72 50 · Fax +45 33 30 72 70
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of acts of terror committed abroad. If you serious crimes, be that as a victim, witness that the perpetrator is in Denmark please contact the Special International Crimes Office.

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Le Service Spécial des Crimes Internationaux mène les enquêtes sur génocides, crimes de guerre, crimes contre l'humanité et d'autres crimes graves comme homicide, torture ou terrorisme commis à l'étranger. Êtes vous au courant des crimes graves de ce genre, soit en étant victime ou témoin, ou si vous avez autrement assisté aux tels crimes, et savez vous que le malfaiteur se trouve au Danemark, vous pouvez faire une démarche auprès du Service Spécial.

+45 33 30 72 50 · Fax +45 33 30 72 70
E-mail sico@ankl.dk · www.sico.ankl.dk

Prokuroria e shikalles së parë për çështje të veçanta penale ndërkombëtare është duke zbuluar çështje gjenocide, krimë lufte, krimë kundër gjeneve njerëzore dhe krimë të tjerë të rënda, siç është vrasje, torturë ose terror, të bëra në botën të jashtme. Nëse ti ke dituri për krimë të tilla të rënda, ose meqenëse vetë ke qenë vikim, dëshmitar ose më tëjetër mënyrë ke përjetuar këtë, edhe je në dituri që bënësi i veprës penale gjendet në Danimark, mund të lajmërohesh tek Prokuroria.

+45 33 30 72 50 · Fax +45 33 30 72 70
E-mail sico@ankl.dk · www.sico.ankl.dk

خارجول دولت برای افساسای خاص جزای بین المللی در مورد افساسای افلا مزید، جناياتكاري در جنگ، جناياتكاري در مقابل بشر و ديگر جنايات خطرناك مانند قتل، شکنجه و یا آزار که در خارج بروج یومره باشد تعلقات و بررسی میشود.

اگر شما در مورد جنین جنایات خطرناك معلومات دارید و یا اینکه شما قربانی و یا شاهد چنین جنایات باشید و یا از کدام طریق دیگر در مورد جنایات خطرناكه انگلی حاصل کرده اید و هم میدانید که کتند آن در دانمارک میباشد. میباید نزد خارجول دولت مراجعه کنید.

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Canada's Border Services Agency's Crimes Against Humanity and War Crimes Section seeks out war criminals and other perpetrators

Canada's Border Services Agency has a Crimes Against Humanity and War Crimes Section that seeks to identify possible war criminals and perpetrators of any reprehensible act who are located within Canada's borders. Once a perpetrator has been identified, the section has seven options: (1) exclusion from asylum status; (2) admissibility hearing; (3) removal; (4)

revocation of citizenship; (5) extradition; (6) surrender to an international tribunal; and (7) criminal investigation and prosecution. The section prioritizes denying visas and entry into Canada, rather than pursuing costly and resource-intensive criminal proceedings. Any person with information pertaining to a war criminal residing in Canada or a perpetrator of any reprehensible act can contact the Crimes Against Humanity and War Crimes Section at 1-(613)-952-7370 or wc-cdg@justice.gc.ca.⁴⁷⁸

b. Prosecutions on the Basis of Universal Jurisdiction

Some countries prosecute perpetrators of serious violations of international law based on the principle of universal jurisdiction.⁴⁷⁹ The notion of "universal jurisdiction" gives courts in any country the ability to prosecute those responsible for committing crimes against humanity and war crimes.⁴⁸⁰ These crimes include crimes such as murder, torture, arbitrary imprisonment, and certain types of persecution.⁴⁸¹ In principle, universal jurisdiction can be invoked regardless of the country where the crimes were committed or the nationality of the perpetrators.⁴⁸² If a perpetrator is found in the territory of a country, the government of that country has an

⁴⁷⁸ Canada Border Services Agency, "Canada's Program on Crimes Against Humanity and War Crimes," accessed Nov. 14, 2013, <http://cbsa.gc.ca/security-securite/wc-cg/wc-cg2011-eng.html#c2>; Canada Department of Justice, "War Crimes Program," accessed Jan. 17, 2014, <http://www.justice.gc.ca/eng/cj-jp/wc-cdg/prog.html#how>.

⁴⁷⁹ Ariana Pearlroth, REDRESS, *Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in 27 Member States of the European Union* (2010), 19. Also available online at http://www.redress.org/downloads/publications/Extraterritorial_Jurisdiction_In_the_27_Member_States_of_the_European_Union.pdf.

⁴⁸⁰ Petrasek, *Hard Cases: Bringing Human Rights Violators to Justice Abroad*, *supra* note 470, at 1.

⁴⁸¹ *Ibid.*, 5.

⁴⁸² Pearlroth, *Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in 27 Member States of the European Union*, *supra* note 479.

obligation either to prosecute or to extradite the perpetrator to another country for prosecution.⁴⁸³ While sometimes controversial, universal jurisdiction has been used more commonly in recent times.⁴⁸⁴

The availability of universal jurisdiction varies from country to country.⁴⁸⁵ Moreover, the decision to pursue a prosecution based on universal jurisdiction rests with the prosecutors of each country, and not with the victims, although in some countries, individuals may be able to pursue private prosecutions of human rights violators.⁴⁸⁶

Some European countries with more rigorous prosecutions under universal jurisdiction have created specialized departments to handle visa and asylum applicants who have been flagged for potential involvement in international crimes. These departments screen cases by reviewing international suspect lists and by applying specialized criteria that could signal involvement in serious human rights abuses, such as a particular previous employer. Once immigration authorities identify a suspect, they are able to transfer the case to prosecutorial authorities for further examination. Denmark, the Netherlands, and Norway have created such departments, and most universal jurisdiction prosecutions in these countries have been achieved through this immigration screening process.⁴⁸⁷

In the United States, the Human Rights and Special Prosecution Section of the U.S. Department of Justice (HRSP) prosecutes human rights violators within the jurisdiction of the United States under federal criminal statutes proscribing torture, war crimes, genocide, and recruitment and use of child soldiers.⁴⁸⁸ The HRSP works with the U.S. Department of Homeland Security and Federal Bureau of Investigation (FBI) to “identify, investigate, and prosecute alleged human rights violators.”⁴⁸⁹ The HRSP also prosecutes human rights violations falling under U.S. civil immigration and naturalization laws, as discussed in the previous section.⁴⁹⁰

Initiating a criminal prosecution

Advocates can help initiate a prosecution in a number of ways. One way is to alert and then cooperate with a country’s immigration and prosecution authorities. A second approach, available in some countries, is to submit a private complaint. In Belgium, France, and Spain, for example, nearly all universal jurisdiction cases processed in their courts have been initiated through a private complaint process. Private complaints can be brought by individual victims as well as NGOs. They can be filed directly with an investigating judge or prosecutor.⁴⁹¹

⁴⁸³ International Committee of the Red Cross (ICRC), *Analysis of the Punishments Applicable to International Crimes (War Crimes, Crimes Against Humanity and Genocide) in Domestic Law and Practice*, 90, 870 International Review of the Red Cross 467 (June 2008). Also available online at <http://www.icrc.org/eng/resources/documents/article/review/review-870-p461.htm>.

⁴⁸⁴ Joseph Rikhof, *Canada and War Criminals: The Policy, the Program and the Results*, www.isrcl.org/papers/2004/Rikhof.pdf.

⁴⁸⁵ Pearlroth, *Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in 27 Member States of the European Union*, *supra* note 479, at 19.

⁴⁸⁶ Petrasek, *Hard Cases: Bringing Human Rights Violators to Justice Abroad*, *supra* note 470, at 17.

⁴⁸⁷ Human Rights Watch, “Universal Jurisdiction in Europe: The State of Art,” *supra* note 471, at 6–7.

⁴⁸⁸ U.S. Dept. of Justice, “About,” accessed Jan. 16, 2014, <http://www.justice.gov/criminal/hrsp/about/>.

⁴⁸⁹ *Ibid.*

⁴⁹⁰ *Ibid.*

⁴⁹¹ Human Rights Watch, “Universal Jurisdiction in Europe: The State of Art,” *supra* note 471, at 6–8.

Victim Participation in Criminal Proceedings

In criminal proceedings, victims are often called to testify and play a critical role in presenting evidence to support a conviction. As the German representative to the Assembly of States Parties to the Rome Statute confirmed in November 2013, “[t]he fight against impunity has at its core the fate of the victims of the most serious crimes.”⁴⁹² Victim testimony can be particularly powerful before a sentence is pronounced. In Finland, the victim may recommend a sentence other than the one the prosecutor recommends. Some jurisdictions in the United States and Australia allow victims to submit Victim Impact Statements explaining how the crime has affected them and their families.

For further discussion of the roles victims can play in criminal prosecutions in various jurisdictions in Europe, see Matti Joutsen, *Victim Participation in Proceedings and Sentencing in Europe*, 3 *International Review of Victimology* 57 (1994).

Universal Jurisdiction in Action: France, the Netherlands, Norway, and Spain

- *France*: French authorities are prosecuting a case brought by the Collectif des Parties Civiles pour le Rwanda, a group of civil plaintiffs. The French prosecutor has brought charges based on a private complaint against Pascal Simbikangwa for complicity in genocide and crimes against humanity for his alleged involvement with the Rwandan genocide.⁴⁹³
- *The Netherlands*: In 2005, two Afghan nationals were convicted of war crimes and torture after attempting to enter into the Netherlands to seek asylum. A specialized agency within the Dutch Immigration and Naturalization Service referred the two men to prosecution authorities based in part on their disclosure that they had previously worked as generals in the Afghan army.⁴⁹⁴
- *The Netherlands*: In 2004, a former army officer from Zaire was convicted of torture for his participation in leading death squads in the Democratic Republic of Congo.⁴⁹⁵
- *Norway*: In 2013, Sadi Bugingo was found guilty of complicity in the premeditated killings of over 2,000 individuals of the Tutsi ethnic group during the Rwandan genocide and was sentenced to 21 years in prison.⁴⁹⁶
- *Spain*: In 2013, Spain’s top criminal court ruled that it had jurisdiction over charges of genocide that the Madrid-based Tibetan Support Committee, a diaspora group, brought against former Chinese President Hu Jintao. The court ruled that it could hear the case because one of the alleged victims bringing the case was a Tibetan monk with Spanish citizenship.⁴⁹⁷ A few months later, however, the Spanish Government suggested it might restrict courts’ use of universal jurisdiction to require that the victim be a Spanish citizen at the time of the crime.⁴⁹⁸

⁴⁹² Pascal Hector, Statement on Behalf of Germany, International Criminal Court Twelfth Session of the Assembly of States Parties (Nov. 20, 2013), 3, http://www.icc-cpi.int/iccdocs/asp_docs/ASP12/GenDeba/ICC-ASP12-GenDeba-Germany-ENG-FRA.pdf.

⁴⁹³ Open Society Initiative, *Beyond Arusha: The Global Effort to Prosecute Rwanda’s Genocide*, by Karen Corrie (Apr. 17, 2013), <http://www.opensocietyfoundations.org/voices/beyond-arusha-global-effort-prosecute-rwandas-genocide>.

⁴⁹⁴ Human Rights Watch, “Universal Jurisdiction in Europe: The State of Art,” *supra* note 471, at 6.

⁴⁹⁵ Rikhof, *Fewer Places to Hide? The Impact of Domestic War Crimes Prosecutions on International Community*, *supra* note 402, at 21.

⁴⁹⁶ Associated Press, *Rwandan in Norway Given 21 Years in Genocide Case*, Feb. 14, 2013, <http://bigstory.ap.org/article/rwandan-norway-given-21-years-genocide-case>.

⁴⁹⁷ *Spain probes Hu Jintao ‘genocide’ in Tibet court case*, BBC News, Oct. 11, 2013, <http://www.bbc.co.uk/news/world-europe-24490004>.

⁴⁹⁸ Frank Ching, *Spain blocks Tibetan genocide suit*, China Post, Jan. 8, 2014, <http://www.chinapost.com.tw/commentary/the-china-post/frank-ching/2014/01/08/397838/Spain-blocks.htm>.

Limitations on universal jurisdiction

There are a number of limitations on the availability and desirability of invoking universal jurisdiction:

- Reluctance to Invoke Universal Jurisdiction. For practical purposes, the availability of universal jurisdiction varies greatly.⁴⁹⁹ Even countries that have universal jurisdiction legislation may allow those laws to lie dormant. Belgium, Denmark, Germany, and Spain have prosecuted cases applying universal jurisdiction.⁵⁰⁰ Cyprus, Latvia, Lithuania, and Slovakia, on the other hand, have not prosecuted cases applying universal jurisdiction.⁵⁰¹ Australia is more likely to initiate civil litigation than bring a criminal prosecution.⁵⁰²
- Prosecutorial Discretion. The decision to pursue a prosecution based on universal jurisdiction typically rests with the prosecutors in a country, rather than with the victims. In some jurisdictions, victims or NGOs may initiate private prosecutions against human rights violators, but these initiatives can be costly and complex, and courts may have the authority to reject them.⁵⁰³
- Logistics. Prosecuting crimes based on universal jurisdiction can present daunting logistical challenges, including language barriers, burdensome and costly extraterritorial investigations, and lack of prosecutorial experience with the crimes at issue.⁵⁰⁴
- Presence and Residency Requirements. At least twenty countries in Europe require the alleged perpetrator to be present in the country during various stages of the proceedings and investigations.⁵⁰⁵ Australia also requires the alleged perpetrator to be present in Australia or under Australia's authority.⁵⁰⁶ Some European countries will not initiate a prosecution unless the alleged perpetrator is a resident of the country.⁵⁰⁷
- Statute of Limitations. Most countries in Europe recognize that crimes under the Rome Statute (genocide, crimes against humanity, war crimes, and the crime of aggression) cannot be time-barred. Other crimes, however, are subject to a statute of limitations.⁵⁰⁸
- Political Manipulation. Application of universal jurisdiction can be vulnerable to politicization. Universal jurisdiction may be used as a tool to embarrass a country or, conversely, political motivations may prompt a country to spare a guilty perpetrator.⁵⁰⁹
- Immunity. Most countries recognize some form of immunity for heads of state and other top-level officials who, while acting in their official capacity, commit a crime. In some circumstances, however, that immunity is deemed waived or inapplicable. Diplomatic agents generally have personal immunity while in the country where they are posted.

⁴⁹⁹ REDRESS, *Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in 27 Member States of the European Union*, *supra* note .

⁵⁰⁰ Human Rights Watch, "Universal Jurisdiction in Europe: The State of Art," *supra* note , at 6-7.

⁵⁰¹ REDRESS, *Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in 27 Member States of the European Union*, *supra* note , at 228, 171, 175, 100.

⁵⁰² Jesuit Social Justice Centre, *Chasing Shadows: Indonesian War Criminals and Australian Law*, by Dr. Mark Burn and Kath Gibson (May 2007). Also available online at http://www.uniya.org/talks/byrne_may07-op2.html.

⁵⁰³ International Council on Human Rights, *Hard Cases: Bringing Human Rights Violators to Justice Abroad*, *supra* note 470, at 17.

⁵⁰⁴ Human Rights Watch, "Universal Jurisdiction in Europe: The State of Art," *supra* note 471, at 10.

⁵⁰⁵ Pearlroth, *Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in 27 Member States of the European Union*, *supra* note 479, at 23, 39.

⁵⁰⁶ Jesuit Social Justice Centre, *Chasing Shadows: Indonesian War Criminals and Australian Law*, *supra* note .

⁵⁰⁷ Pearlroth, *Extraterritorial Jurisdiction in the European Union: A Study of the Laws and Practice in 27 Member States of the European Union*, *supra* note 479, at 25.

⁵⁰⁸ *Ibid.*, 33.

⁵⁰⁹ Human Rights Watch, "Universal Jurisdiction in Europe: The State of Art," *supra* note 471, at 1–2.

ii. Civil Litigation

Individual victims and civil society organizations may be able to bring civil lawsuits against perpetrators outside of the jurisdiction where the human rights violations occurred. Advocates who are considering this option should consult the section on Impact Litigation in Part A(2) of this chapter.

In the United States, the Alien Tort Statute (ATS) and the Torture Victim Protection Act (TVPA) form the primary basis for victims to bring civil suits against perpetrators. “The ATS and TVPA permit suits to be brought only for the most serious forms of human rights violations.”⁵¹⁰ Because of the presumption against laws having extraterritorial effect, courts generally interpret these laws narrowly. Moreover, many of the limitations on the exercise of universal jurisdiction, discussed in the previous section, also apply to ATS and TVPA suits.

Comparison of the Alien Tort Statute and the Torture Victim Protection Act ⁵¹¹		
	Alien Tort Statute	Torture Victim Protection Act
Legal provision	28 U.S.C. § 1350	Pub. L. 102-256, 106 Stat. 73
Who may bring suit?	Only non-U.S. citizens	U.S. citizens or non-U.S. citizens
Limits on conduct covered	Only specifically defined, universally accepted, and obligatory norms of international law	<ul style="list-style-type: none"> torture extrajudicial killing
Examples of conduct covered	<ul style="list-style-type: none"> torture extrajudicial killing forced disappearance crimes against humanity cruel, inhuman, or degrading treatment prolonged arbitrary detention genocide war crimes slavery state-sponsored sexual violence 	<ul style="list-style-type: none"> torture extrajudicial killing
Possible defendants	individuals, multi-national corporations	individuals acting under actual or apparent authority, or color of law, of any foreign nation

⁵¹⁰ Center for Justice and Accountability, “The Alien Tort Statute,” accessed Jan. 16, 2014, <http://www.cja.org/article.php?id=435>.

⁵¹¹ Ibid.; Ekaterina Apostolova, Note, *The Relationship Between the Alien Tort Statute and the Torture Victim Protection Act*, 28 Berkeley Journal of International Law 640 (2010), <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=1396&context=bjil>.

	Alien Tort Statute	Torture Victim Protection Act
Limits on possible defendants	<ul style="list-style-type: none"> defendant must be personally served with the lawsuit while physically present in the United States defendant's conduct must have sufficient ties to the United States current heads of state have immunity 	
Other limitations	<ul style="list-style-type: none"> exhaustion of remedies might be required ten-year statute of limitations from TVPA may apply 	<ul style="list-style-type: none"> must first exhaust any adequate and available local remedies in the country where the conduct occurred ten-year statute of limitations, but equitable tolling may be available
<p><i>Note: This area of law is rapidly evolving. Advocates who are interested in these accountability mechanisms should consult an attorney or an organization that has experience litigating ATS and TVPA claims.</i></p>		

Center for Justice and Accountability and International Rights Advocates Bring Human Rights Abusers to Justice under the Alien Tort Statute and the Torture Victim Protection Act

The Center for Constitutional Rights, the Center for Justice and Accountability, and International Rights Advocates use the ATS and TVPA to bring human rights abusers to justice in U.S. courts. All three organizations recognize that these lawsuits do not result in jail time for the perpetrators. But clients and advocates have identified other reasons for using civil litigation as an accountability mechanism:

- Ending impunity;
- Letting survivors speak;
- Exposing human rights abusers;
- Deterring future abuses;
- Denying safe haven to perpetrators; and
- Building human rights law in domestic courts.⁵¹²

To learn more about the Center for Constitutional Rights, visit <http://ccrjustice.org/>, or contact the CCR at:

Center for Constitutional Rights
 666 Broadway
 7th Floor
 New York, NY 10012
 Telephone: 212-614-6464
 Fax: 212-614-6499

⁵¹² Center for Justice and Accountability, "The Alien Tort Statute," *supra* note 510.

To learn more about the CJA, visit <http://www.cja.org/index.php>, or contact the CJA at:

The Center for Justice & Accountability
870 Market Street, Suite 680
San Francisco, CA 94102
center4justice@cja.org
Tel 415. 544. 0444
Fax 415. 544. 0456

To learn more about International Rights Advocates, visit <http://www.iradvocates.org/>, or contact IRAdvocates at:

International Rights Advocates
1156 15th Street NW, Suite 502
Washington, D.C. 20005
Phone: (202) 527-7997
Fax: (202) 527-7990
Toll Free: 1 (866) 594-4001
Email: info@iradvocates.org

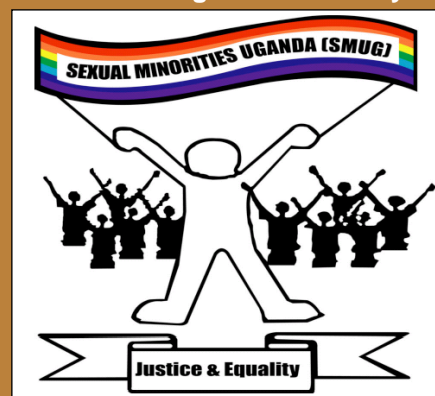
The Alien Tort Statute

The Alien Tort Statute is the primary tool for bringing a civil lawsuit in a U.S. court against the government of another country, state actors, private individuals, and corporations that have violated international law. Subject to certain limitations, plaintiffs who are not U.S. citizens may sue foreign defendants under the ATS in U.S. courts for violations of international laws committed in other nations. Courts generally recognize only limited categories of claims under the ATS: genocide, torture, summary execution, disappearance, war crimes, crimes against humanity, slavery, arbitrary detention, and cruel, inhuman, or degrading treatment.⁵¹³

Courts have construed the ATS to be limited to alleged human rights violations that have some connection to the United States.⁵¹⁴ For example, a district court allowed an ATS lawsuit brought by Kenyan nationals against Osama bin Laden to go forward because the claim related to the attack on the U.S. embassy in Nairobi.⁵¹⁵

Sexual Minorities Uganda Uses Alien Tort Statute to Sue U.S. Citizen Working to Restrict Gay Rights in Uganda

With the assistance of the Center for Constitutional Rights, a Ugandan NGO called Sexual Minorities Uganda (SMUG) filed an ATS claim against Scott Lively, a U.S. citizen who has lobbied the Government of Uganda to adopt stricter laws discriminating against Ugandans based on sexual orientation and gender identity. In *Sexual Minorities Uganda v. Lively*, the District Court for the District of Massachusetts found that the ATS applies to SMUG's claim against Lively for his conduct in Uganda targeting lesbian, gay, bisexual, and transgender



⁵¹³ Alison Bensimon, *Corporate Liability Under the Alien Tort Statute: Can Corporations Have Their Cake and Eat It Too?*, 10 Loyola University Chicago International Law Review, 199, 200 (2013).

⁵¹⁴ ABA Journal, *SCOTUS limits the Alien Tort Statute, Slowing Suits Against U.S. Companies for Action Overseas*, by Mark Walsh (Jul. 2013). Also available online at

http://www.abajournal.com/magazine/article/scotus_limits_the_alien_tort_statute_slowing_suits_against_u.s._companies_ff/.

⁵¹⁵ *Mwani v. Laden*, No. 99-125, U.S. District Court (2013) (memorandum opinion).

communities both through the legal system and through activism. The court recognized that Lively's U.S. citizenship and advocacy work in the United States constituted significant ties to the United States. The court also concluded that persecution of individuals based on their sexual orientation is a crime against humanity and violates international norms.⁵¹⁶

International Rights Advocates is one organization that is working to build capacity in the Global South for ATS-type litigation. International Rights Advocates seeks to build on existing relationships between U.S.-based organizations that conduct ATS litigation and partner organizations in other countries that have assisted with ATS cases. As International Rights Advocates notes, to date Ecuador is the only jurisdiction to support a successful outcome in an ATS-style case. *Aguinda v. Chevron Texaco* was originally filed under the ATS, but the U.S. court dismissed the case, and the case was transferred to Ecuador, where a final verdict was issued against Chevron for \$8.6 billion in damages for environmental harm and related human rights violations.⁵¹⁷

iii. Travel Restrictions

As discussed in part (i) of this section, many countries bar human rights violators from entry and prosecute individuals who lie on their immigration forms for immigration fraud. Some countries have additional immigration laws that bar visas for alleged perpetrators of certain categories of human rights violations. In some cases, travel restrictions themselves can serve as an important accountability mechanism, particularly if an alleged perpetrator is highly visible and unable to visit certain countries.

In recent years, for example, the European Union has imposed “restrictive measures” as a consequence of human rights violations in Belarus, and the U.S. Government has used visa bans as an accountability mechanism for human rights violations in Russia and India.

Belarus

After the 2010 presidential elections in Belarus, the European Union expressed concern about electoral irregularities and the government's violent crackdown on civil society, the political opposition, and the independent media.⁵¹⁸ In early 2011, the EU adopted restrictive measures targeting “those responsible for violation of international electoral standards in the presidential elections or the crackdown on civil society and the democratic opposition.”⁵¹⁹ The restrictions were later expanded to cover “those responsible for serious violations of human rights, the repression of civil society and opposition and persons or entities benefiting from or supporting the regime.”⁵²⁰ A visa ban and asset freeze apply to 232 persons, and 25 business entities are also subject to an asset freeze.⁵²¹

⁵¹⁶ *Sexual Minorities Uganda v. Lively*, No. 13-1937, U.S. Court of Appeals (2013), 1–2.

⁵¹⁷ Adina Appelbaum, International Rights Advocates, *ATS-Like Litigation Abroad: Capacity Building in the Global South*, Nov. 26, 2013. Also available online at <http://www.iradvocates.org/blog/ats-litigation-abroad-capacity-building-global-south#sthash.ebZXk0VE.dpuf>.

⁵¹⁸ European Union External Action, “Factsheet: The European Union and Belarus,” 131029/01, Oct. 29, 2013. Also available online at http://eeas.europa.eu/statements/docs/2013/131029_01_en.pdf.

⁵¹⁹ *Ibid.*

⁵²⁰ *Ibid.*

⁵²¹ *Ibid.*



Protests in Minsk, Belarus in 2010

Russia

In 2011, the U.S. State Department adopted a policy to deny entry visas to Russian officials involved in the 2009 detention and death of Sergei Magnitsky, a lawyer who had been fighting a major fraud and corruption case.⁵²² In 2012, the U.S. Congress passed the Sergei Magnitsky Rule of Law Accountability Act, which bars entry to the United States for certain Russian human rights violators and also freezes any assets they have in the United States.⁵²³ The restrictions apply to individuals identified by the U.S. President, who, based on credible evidence, are “responsible for the detention, abuse, or death of Sergei Magnitsky, participated in efforts to conceal the legal liability for the detention, abuse, or death of Sergei Magnitsky, financially benefitted from the detention, abuse, or death of Sergei Magnitsky, or w[ere] involved in the criminal conspiracy uncovered by Sergei Magnitsky.”⁵²⁴ The restrictions also apply to persons who are “responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals seeking . . . to expose illegal activity carried out by officials of the Government of the Russian Federation; or . . . to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly, and the rights to a fair trial and democratic elections, in Russia.”⁵²⁵ As of April 2013, the President of the United States has identified eighteen individuals who are subject to the restrictions in the Magnitsky Act.⁵²⁶ European officials have called for similar sanctions against Russian officials.⁵²⁷

⁵²² Andrew E. Kramer, *Russians Linked to Jail Death Are Barred From U.S.*, New York Times, July 26, 2011, <http://www.nytimes.com/2011/07/27/world/europe/27russia.html>.

⁵²³ *Obama Signs Magnitsky Bill*, Moscow Times, Dec. 17, 2012, <http://www.themoscowtimes.com/news/article/obama-signs-magnitsky-bill/473144.html>.

⁵²⁴ Russia and Moldova Jackson Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012, § 404(a)(1) (2012).

⁵²⁵ *Ibid.* § 404(a)(2).

⁵²⁶ U.S. Department of the Treasury, “Magnitsky Sanction Listings,” Apr. 12, 2013. Also available online at <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20130412.aspx>.

⁵²⁷ Andrew Rettman, *EU considers visa-ban-lite on Russian officials*, EU Observer, Apr. 6, 2013, <http://euobserver.com/foreign/120368>.

Activists Press for Visa Bans Targeting Sponsors of Russian Law Banning “propaganda of non-traditional sexual relations”

After the Russian Duma adopted a law criminalizing distribution of “propaganda of non-traditional sexual relations,” some Russian gay rights activists urged countries to deny visas to the law’s primary sponsors.⁵²⁸ Some civil society organizations have urged the U.S. administration to add the sponsors to the Magnitsky Act list.⁵²⁹ Canadian activists and politicians have pressed for similar visa bans.⁵³⁰



C. International Accountability Mechanisms

International criminal tribunals are expensive and complex accountability mechanisms, particularly in comparison with domestic options. But in some cases they remain the most viable option for holding perpetrators of serious human rights abuses accountable. Ad hoc tribunals have been established to respond to specific events. The International Criminal Court, on the other hand, is a permanent criminal tribunal with jurisdiction over war crimes, genocide, and crimes against humanity. If an ad hoc tribunal is not available and the ICC cannot exercise jurisdiction, advocates seeking accountability for perpetrators should consider the experiences of these international criminal tribunals in deciding whether to undertake the task of trying to establish a new tribunal.

Intergovernmental organizations such as the Commonwealth of Nations and the Council of Europe do not offer criminal accountability, but sanctions against member countries in the form of suspension or expulsion can sometimes be effective in pressing countries to respect human rights and to restore democratic governance.

i. International Criminal Tribunals

International accountability mechanisms have played a growing role in ending impunity for human rights abuses worldwide. These international mechanisms have provided a judicial avenue for addressing atrocities that would otherwise have been difficult or impossible to prosecute domestically. The most notable international accountability mechanisms include the various international criminal tribunals. Many tribunals are temporary (or “ad hoc”) and have limited jurisdiction over a specific incident or series of events. The International Criminal Court is a permanent tribunal that serves as a venue of last resort for egregious crimes that cannot be effectively and legitimately prosecuted elsewhere.

Victims and advocates who are concerned about accountability for war crimes and other grave human rights violations that are not being prosecuted in a domestic court can examine the existing international tribunals to determine whether one might be an appropriate venue for pursuing accountability. This section provides civil

⁵²⁸ Adam Taylor, *There's a Better Way to Stand up for Gay Rights in Russia than Boycotting Vodka*, Global Post, July 30, 2013, <http://www.globalpost.com/dispatch/news/regions/europe/russia/130730/theres-better-way-stand-gay-rights-russia-boycotting-vodk>.

⁵²⁹ James Kirchick and Andras Simonyi, Foreign Policy Initiative, *Using the Magnitsky Act to Put Russian Oppressors of LGBT Citizens on Notice*, Dec. 6, 2013, <http://www.foreignpolicy.org/content/fpi-and-ctr-analysis-responding-effectively-russia%E2%80%99s-anti-gay-laws#sthash.2hxpCodd.dpuf>.

⁵³⁰ Craig Takeuchi, *Canadian Organizations Issue Open Letter to Demand Action on Russia's Antigay Laws*, Straight.Com, Aug. 23, 2013, <http://www.straight.com/life/414491/canadian-organizations-issue-open-letter-demand-action-russias-antigay-laws>.

society organizations, victims, advocates, and laypeople with an overview of the existing mechanisms in place. It also briefly discusses the potential to create new mechanisms. Careful consideration of what each international accountability mechanism offers can allow interested parties to identify appropriate mechanisms.

For each existing tribunal, several factors are relevant to consider:

- (1) **Whether the Crimes Fall Within the Court's Jurisdiction and Mandate.** A number of international criminal accountability mechanisms already exist. Most of these tribunals have a limited mandate and narrow jurisdiction. If a victim's grievance falls within a mandate of an established tribunal, then that court may be the most effective means of seeking recourse.
- (2) **Role of Victims and Witnesses.** If an existing tribunal is an appropriate venue, then victims and victim-oriented organizations should examine the opportunities victims have to participate in the mechanism, protections and support offered to victims and witnesses, and whether the tribunal is authorized to provide victims with any remedies.
- (3) **How To Bring Charges or Make a Complaint.** If victims or civil society organizations are aware of a perpetrator who is not already a party to a proceeding in an appropriate tribunal, they should identify the procedural steps available for filing a charge or a complaint against the perpetrator.
- (4) **Public Outreach and Engagement.** Civil society is often eager to understand the proceedings in these international criminal tribunals. Many tribunals have extensive outreach programs to educate the public, share the voices of victims, and ensure that atrocities are not repeated.

a. Ad hoc Tribunals

Several international tribunals and hybrid (international-domestic) tribunals have been initiated on an ad hoc basis around the world in response to atrocities. The primary goal of most ad hoc tribunals is to prosecute the most egregious perpetrators, but some tribunals collaborate with domestic courts to pursue legal remedies for smaller scale, yet still very serious, crimes.⁵³¹

Ad hoc tribunals include the International Criminal Tribunal for the former Yugoslavia (ICTY), the International Criminal Tribunal for Rwanda (ICTR), and three hybrid tribunals: the Extraordinary Chambers in the Courts of Cambodia (ECCC), the Special Court for Sierra Leone (SCSL), and the Special Tribunal for Lebanon (STL).

International Criminal Tribunal for the former Yugoslavia Jurisdiction and mandate

The United Nations established the International Criminal Tribunal for the former Yugoslavia in 1993 in The Hague, the Netherlands. The ICTY's mandate is to prosecute individuals responsible for serious violations of international humanitarian law committed in the former Yugoslavia since 1991.⁵³² The ICTY prosecutes four types of crimes: (1) grave breaches of the Geneva Convention; (2) violations of the laws or customs of war; (3) genocide;⁵³³ and (4) crimes against humanity.⁵³⁴ The ICTY can prosecute any person who planned, instigated, ordered, committed, or otherwise aided and abetted in any of these crimes, including Heads of State or



The International Criminal Tribunal for the former Yugoslavia

⁵³¹ The ICTY, for instance, routinely cooperates with regional courts in the former Yugoslavia in prosecuting accused individuals.

⁵³² Updated Statute of the International Criminal Tribunal for the former Yugoslavia, Art. 1, 2009. Available online at http://www.icty.org/x/file/Legal%20Library/Statute/Statute_sept09_en.pdf.

⁵³³ *Ibid.*, Art. 4 (Article 4 states, "Including conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide").

⁵³⁴ *Ibid.*, Art. 2–5.

Government.⁵³⁵ The ICTY was envisioned to prosecute “senior level” perpetrators of atrocities in the former Yugoslavia, leaving the majority of the lower level perpetrators to be prosecuted by domestic courts in the region.

Role of victims and witnesses

Over 4,500 witnesses have testified at the ICTY, and the ICTY has a dedicated independent unit, the Victims and Witnesses Section (VWS), which provides, “all the logistical, psychological[,] and protective measures necessary to make their experience testifying as safe and as comfortable as possible.”⁵³⁶ The VWS has “trained professional staff, available on a 24-hour shift basis that can help witnesses with their psycho-social and practical needs before, during and after their testimony in The Hague.”⁵³⁷

The VWS also provides security protection and privacy measures for victims and other witnesses testifying at the ICTY. Most witnesses testify in open court, but the prosecution or defense may ask the court to implement protective measures, including:

- Removing the witness’ name and/or identifying information from the ICTY’s public record;
- Modifying the witness’ voice and face in televised proceedings;
- Assigning the witness a pseudonym;
- Allowing the witness to testify in closed session; and
- Allowing the witness to testify remotely by video.⁵³⁸

Another aspect of victim participation in the ICTY is the Voice of the Victims program. The Voice of the Victims program provides audio and video coverage of victim and witness testimony that allows the outside world to understand the crimes that were committed. Victims’ stories are extremely difficult to tell, but these stories play an important role in exposing the injustices committed in the former Yugoslavia. “Many victims who testified before the Tribunal courageously related how they were either beaten, tortured, raped, sexually assaulted, forced from their homes, watched how their family members were murdered, or how they saw others fall victim to these terrible crimes.”⁵³⁹

The ICTY does not offer reparations to victims, nor are victims permitted to become involved in proceedings, unless called as witnesses by a party. Nonetheless, if the ICTY makes a factual finding essential to the merits of a case that a witness was a victim of a particular defendant, the victim can often use the decision as leverage in his or her home country to pursue reparations there.

How to bring charges

The ICTY issued its final indictments at the end of 2004 and is completing its mandate.⁵⁴⁰ While the ICTY has been largely successful in fulfilling its mandate, the vast majority of alleged perpetrators will not be tried by the ICTY. Because the ICTY prosecutes only senior level officials, part of the ICTY’s outreach strategy has been capacity-building in national jurisdictions to bolster, train, develop, and improve local legal frameworks. Through cooperative efforts between the ICTY and domestic courts in the region, local prosecutors have been granted access to the ICTY’s evidentiary and pre-trial submissions on a case-by-case basis, increasing efficiency and saving financial resources for the regional courts. The ICTY’s capacity-building program thus not only helps

⁵³⁵ Ibid., Art. 7.

⁵³⁶ United Nations International Criminal Tribunal for the former Yugoslavia (ICTY), “Registry, Witnesses,” accessed Jan. 16, 2014, <http://www.icty.org/sid/158>.

⁵³⁷ Ibid.

⁵³⁸ Ibid.

⁵³⁹ ICTY, “Voice of the Victims,” accessed Jan. 16, 2014, <http://www.icty.org/sections/Outreach/VoiceoftheVictims>.

⁵⁴⁰ United Nations International Criminal Tribunal for the former Yugoslavia (ICTY), “Office of the Prosecutor,” accessed Jan. 16, 2014, <http://www.icty.org/sections/AbouttheICTY/OfficeoftheProsecutor>.

lighten an international tribunal's caseload by enabling it to focus on the most egregious perpetrators, but it also improves regional and national judicial systems.

Three national courts are handling war crimes cases related to the conflict in the former Yugoslavia: (1) the War Crimes Chamber of the Court of Bosnia and Herzegovina; (2) Regulation 64 Panels of Kosovo; and (3) The Serbian Office of War Crimes Prosecutor in Belgrade, along with the special War Crimes Panel within the Belgrade District Court.

Any individual who has information or evidence regarding an individual suspected of participating in any way in the atrocities in the former Yugoslavia should contact both the ICTY and the local jurisdiction. The ICTY may be able to offer information about whether a proceeding is already ongoing against the suspect in one of the national jurisdictions and can provide relevant evidence to the national jurisdiction.

Public outreach and engagement

The ICTY has perhaps been the most active of all the international criminal tribunals in conducting outreach activities. In addition to capacity-building initiatives with domestic courts, the ICTY participates in activities that include "work with the younger generation, grassroots communities, and the media; visits to the ICTY; and the production of a variety of information materials, multi-media website features and social media outputs. In these activities, Outreach not only informs, but also listens and encourages dialogue."⁵⁴¹ Multi-media activities include documentaries produced entitled "Sexual Violence and the Triumph of Justice" and "Crimes before the ICTY: Prijedor," and several interactive maps and factsheets. The ICTY works with schools and universities in the affected areas to detail the work of the Court and to allow interaction between students and ICTY personnel.

The ICTY publishes statements of guilt from many individuals who plead guilty before the court. These statements of guilt⁵⁴² can provide information to local communities and allow the world to hear details of the crimes committed and perpetrators' expressions of remorse.

The ICTY also began a program called Bridging the Gap, which was implemented to provide more substantive information to the areas affected by the conflict. "The one-day events, held in the towns where some of the most serious crimes took place, included candid and comprehensive presentations from panels of Tribunal staff who were directly involved in the investigation, prosecution, and adjudication of alleged crimes."⁵⁴³

For further information

To monitor the ICTY's proceedings or find more information about the ICTY, consult the court's website: www.icty.org. The court offers live webcasts of its public proceedings. Interested parties also have the opportunity to visit the ICTY in person. Trials at the ICTY are open to the public, with the exception of closed sessions, and can be viewed from public galleries in the courtrooms or from monitors in the Court's lobby.⁵⁴⁴ Individuals may use a number of social media tools to follow the ICTY. The ICTY has a Twitter account (@ICTYnews), a YouTube channel (www.youtube.com/ICTYtv), and a Facebook page (www.facebook.com/ICTYMKSJ). For information regarding witness participation, or filing charges at the national level, contact the Office of the Prosecutor, at Tel: +31 (0)70 512 8958, or E-mail: ContactOTP@icty.org.

⁵⁴¹ United Nations International Criminal Tribunal for the former Yugoslavia (ICTY), "Outreach," accessed Jan. 16, 2014, <http://www.icty.org/sections/Outreach/OutreachProgramme>.

⁵⁴² United Nations International Criminal Tribunal for the former Yugoslavia (ICTY), "Statements of Guilt," accessed Jan. 16, 2014, <http://www.icty.org/sid/203>.

⁵⁴³ ICTY, "Outreach," *supra* note 541.

⁵⁴⁴ United Nations International Criminal Tribunal for the former Yugoslavia (ICTY), "Visits," accessed Jan. 16, 2014, <http://www.icty.org/sid/12>.

The ICTY is particularly noteworthy as a model for capacity-building in domestic courts. These capacity-building programs can help lighten an international tribunal's burden of prosecuting lower-level perpetrators while also improving national judicial systems. Another significant contribution of the ICTY is the prosecution of sexual crimes during international conflicts. "The ICTY took groundbreaking steps to respond to the imperative of prosecuting wartime sexual violence. Together with its sister tribunal for Rwanda, the Tribunal was among the first courts of its kind to bring explicit charges of wartime sexual violence, and to define gender crimes such as rape and sexual enslavement under customary law. The ICTY was also the first international criminal tribunal to enter convictions for rape as a form of torture and for sexual enslavement as crime against humanity, as well as the first international tribunal based in Europe to pass convictions for rape as a crime against humanity, following a previous case adjudicated by the International Criminal Tribunal for Rwanda. The ICTY proved that effective prosecution of wartime sexual violence is feasible, and provided a platform for the survivors to talk about their suffering. That ultimately helped to break the silence and the culture of impunity surrounding these terrible acts."⁵⁴⁵

UN MICT Provides Continuing Assistance to Victims from ICTY and ICTR Cases and Supervises Enforcement of Sentences

In December 2010, the UN Security Council established the Mechanism for International Criminal Tribunals (MICT) to continue the facilitation of a variety of functions of the International Criminal Tribunal for Rwanda (ICTR) and the International Criminal Tribunal for the former Yugoslavia (ICTY) after the completion of their mandates. The MICT aims to continue "the jurisdiction, rights and obligations and essential functions" of the tribunals, and carries out the inherited functions of the ICTR from its branch in Arusha, Tanzania, and those of the ICTY from its branch in The Hague.⁵⁴⁶

A primary function of The MICT is ensuring the protection, safety and well-being of witnesses and victims in previous and ongoing cases related to the two tribunals before, during and after a witness' testimony.⁵⁴⁷ Therefore, each branch has an independent Witness Support and Protection Unit (WISP) which ensures the security of witnesses and victims through measures such as "non-disclosure of the identity of the witnesses, closed court sessions" and "the use of one-way close circuit television during testimony."⁵⁴⁸ In addition, the Arusha Branch offers medical and psychosocial support and The Hague Branch offers social and psychosocial counseling services to victims and witnesses.⁵⁴⁹

To increase public access to the nearly 1,800 documents produced by the Appeals Chamber of the ICTR and ICTY, The MICT has launched The ICTR/ICTY Case Law Database. Entries regarding pronouncements on elements of statutory crime, modes of liability and other issues can be searched for and accessed via The MICT's website at: <http://unmict.org/cld.html>.

People convicted by the ICTR and ICTY serve their sentences in a country which has signed an agreement to enforce sentences. The President of The MICT supervises the enforcement of these sentences and has the authority to grant pardons and commutations of sentences for people previously convicted by the ICTR and ICTY as well as those convicted in ongoing and future cases.⁵⁵⁰

⁵⁴⁵ UN International Criminal Tribunal for Rwanda (ICTR), "Crimes of Sexual Violence," accessed Jan. 17, 2014, <http://www.icty.org/sid/10312>.

⁵⁴⁶ The UN Mechanism for International Criminal Tribunals, "About," <http://www.unmict.org/AboutICTR/GeneralInformation/tabid/101/Default.aspx>.

⁵⁴⁷ The UN Mechanism for International Criminal Tribunals, "Witnesses," <http://unmict.org/witnesses.html>.

⁵⁴⁸ *Ibid.*

⁵⁴⁹ *Ibid.*

⁵⁵⁰ The UN Mechanism for International Criminal Tribunals, "About," *supra* note 546.

Information on how to request protective measure assistance can be found at:

<http://www.unmict.org/requests-for-assistance.html>.

The MICT's "Policy for the Provision of Support and Protection Services and Witnesses" can be accessed at: http://www.unmict.org/files/documents/misc/mict_witness_support_policy_en.pdf.

International Criminal Tribunal for Rwanda **Jurisdiction and mandate**

The United Nations Security Council created the International Criminal Tribunal for Rwanda in response to the Rwandan Genocide of 1994. The ICTR is located in Arusha, Tanzania.⁵⁵¹ The ICTR was created "for prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda between January 1, 1994, and December 31, 1994. It may also deal with the prosecution of Rwandan citizens responsible for genocide and other such violations of international law committed in the territory of neighboring States during the same period."⁵⁵² The Court not only punishes genocide, but conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide.⁵⁵³



Role of victims and witnesses

Like the ICTY, victims can testify at the ICTR only as witnesses called by a party. Victims have no right of participation, nor can they receive reparations. Additionally, the ICTR also has a Witness & Victims Support Section (WVSS) which handles all matters relating to witnesses, including availing witnesses for judicial proceedings.⁵⁵⁴ A Witness Support and Protection Program focuses on the security and safety of the witness or victim. The WVSS can assist witnesses "by ensuring that witnesses testify in a safe and conducive environment while being provided with required security (protecting the privacy and ensuring the security and safety of all witnesses) and assistance (diplomatic, administrative, logistic, legal, medical, psychological especially counseling in cases of rape and sexual assaults; and any other required support within the mandate of the WVSS)."⁵⁵⁵ The WVSS provides impartial support "by developing short and long term plans for the protection of witnesses who have testified before the Tribunal and who fear a threat to their lives, property or family; by protecting them within their community as well as by implementing appropriate measures for the protection of witnesses in collaboration with Countries of residence of witnesses and where applicable within the UNHCR and other National organs."⁵⁵⁶

⁵⁵¹ ICTR, "About ICTR," accessed Jan. 16, 2014, <http://www.unict.org/>.

⁵⁵² *Ibid.*; Statute of the International Criminal Statute for Rwanda, 1994, Art. 1. Also available online at <http://www.unict.org/Portals/0/English%5CLegal%5CStatute%5C2010.pdf>.

⁵⁵³ ICTR, Statute of the International Criminal Statute for Rwanda, *supra* note 552, Art. 2(3).

⁵⁵⁴ International Criminal Tribunal for Rwanda, "ICTR Structure: WVSS Section," accessed Jan. 16, 2014, <http://www.unict.org/tabid/106/default.aspx>.

⁵⁵⁵ *Ibid.*

⁵⁵⁶ *Ibid.*

How to bring charges

The ICTR has enacted its completion strategy, although nine accused individuals still remain at large.⁵⁵⁷ The Office of the Prosecution does not have a standardized process for individuals or NGOs to file claims or submit information and evidence.

Public outreach and engagement

The ICTR has participated in several public outreach activities. The ICTR has been particularly focused on educating children and young persons about the conflict and aftermath of the Rwandan Genocide. To this end, the Court has published an ICTR cartoon book called *100 Days—In the Land of a Thousand Hills*.⁵⁵⁸ “The goal is to create an illustrated narrative that will convey the events of the genocide at both personal and national levels to children eight years of age and above.”⁵⁵⁹ The court has also held painting and essay competitions for students. Students from Burundi, Kenya, Rwanda, Tanzania, and Uganda submitted works addressing topics of international justice, national reconciliation, and the fight against impunity.⁵⁶⁰

For further information

To learn more about the ICTR’s proceedings and events, visit the ICTR’s website: www.unictr.org. For information regarding witness involvement and/or filing charges, contact one of the following offices; ICTR, Arusha Office: Tel: 255 27 250 27 4207-4211; ICTR, Kigali Office: Tel +250 84266; ICTR, The Hague Office: Tel: 31 (0)70 512 5027

Extraordinary Chambers in the Courts of Cambodia



Jurisdiction and mandate

The Extraordinary Chambers in the Courts of Cambodia (ECCC) is a hybrid international criminal tribunal created in 2001 to investigate and prosecute the senior leaders of the Khmer Rouge for serious crimes committed between 1975 and 1979.⁵⁶¹ The ECCC sits in Cambodia and uses Cambodian staff and both Cambodian and international co-prosecutors and co-investigating judges.⁵⁶² The ECCC caseload consists of four cases.

Role of victims and witnesses

Victims may file complaints, but “[c]omplainants do not participate as parties in hearings, and they are not entitled to ask the court for reparations. They may however be requested to give evidence or testify as witnesses.”⁵⁶³ After filing a complaint, the ECCC will investigate the facts contained in the complaint to determine whether they fit within an already existing case at the Court or whether the facts could possibly lead to a new case.

⁵⁵⁷ International Criminal Tribunal for Rwanda, “Case: Accused At Large,” accessed Jan. 17, 2014, <http://www.unictr.org/Cases/tabid/77/Default.aspx?id=12&mnid=12>. The nine at large are: (1) Augustin Bizimana; (2) Felicien Kabuga; (3) Fulgence Kayishema; (4) Protais Mpiranya; (5) Pheneas Munyarugarama; (6) Aloys Ndimbati; (7) Ladislas Ntaganzwa; (8) Charles Ryandikayo; and (9) Charles Sikubwabo.

⁵⁵⁸ International Criminal Tribunal for Rwanda, “ICTR Structure: News, ICTR Cartoon Books,” accessed Jan. 16, 2014, <http://www.unictr.org/tabid/2225/default.aspx>.

⁵⁵⁹ Ibid.

⁵⁶⁰ Ibid.; International Criminal Tribunal for Rwanda, “ICTR Structure: News,” accessed Jan. 16, 2014,

<http://www.unictr.org/News/tabid/63/Default.aspx>.

⁵⁶¹ Extraordinary Chambers in the Courts of Cambodia, “About ECCC,” accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/about-eccc>.

⁵⁶² Extraordinary Chambers in the Courts of Cambodia, “The Co-Investigating Judges,” accessed Jan. 17, 2014,

<http://www.eccc.gov.kh/en/ocij/about>.

⁵⁶³ Extraordinary Chambers in the Courts of Cambodia, “Statement by the Co-Investigating Judges Regarding Case 003,” accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/articles/statement-co-investigating-judges-regarding-case-003>.



The Extraordinary Chambers in the Courts of Cambodia

Victims may become Civil Parties to the proceedings. To become a Civil Party, a victim must be a natural person or a legal entity “who suffered physical, material[,] or psychological harm as a direct consequence of at least one of the crimes alleged against the Charged Person.”⁵⁶⁴ Civil Parties “enjoy rights broadly similar to the prosecution and the defence.”⁵⁶⁵ These rights include the right to:

- Choose a legal representative;
- Request the investigation of alleged crimes;
- Request the judges to ask specific questions to the witnesses and the accused;
- Ask the court to take measures to respect their safety, well being, dignity, and privacy in the course of their participation in the proceedings; and
- Request collective and moral reparations.⁵⁶⁶

Individuals and legal entities may apply for recognition as Civil Parties free of charge. While the deadline to apply as a Civil Party in Cases 001 and 002 has passed, interested parties may still apply to be a Civil Party in Cases 003 and 004.

Cambodian Diaspora Members Participate as Civil Parties in the ECCC

Cambodian national attorney Sam Sokong and the Center for Justice and Accountability represent 45 Civil Parties in proceedings before the Extraordinary Chambers in the Courts of Cambodia against two senior officials of the Khmer Rouge: Nuon Chea and Khieu Samphan. The officials are accused of crimes against humanity, war crimes, genocide, and crimes under Cambodian law. The civil parties include Cambodian diaspora members living in the United States.⁵⁶⁷



Chum Mey, a survivor of the Khmer Rouge's S-21 secret prison, testifies at the ECCC

How to bring charges

Any person or legal entity may file a complaint with the ECCC. They may do so by filling out a Victim Information Form and submitting it to the Victims Support Section (VSS). Legal representation can be arranged free of charge by the VSS.

⁵⁶⁴ Extraordinary Chambers in the Courts of Cambodia, “Who is eligible to become a Civil Party?,” accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/victims-support>.

⁵⁶⁵ Extraordinary Chambers in the Courts of Cambodia, “Who is eligible to become a civil party?,” accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/victims-support/civil-party-information>.

⁵⁶⁶ Ibid.

⁵⁶⁷ The Center for Justice and Accountability (CJA), “Case 002: In Brief,” accessed Jan. 17, 2014, <http://cja.org/article.php?list=type&type=449>.

Public outreach and engagement

For people residing in Cambodia interested in a weekly update on the ECCC's events, a radio program is accessible on Thursday evenings from 5:15-6:15 (local Cambodian time) on Radio National Kampuchea AM 918 KHZ and FM 105.75 MHZ. "The radio programme provides an opportunity for the public to interact with court officials and deepen their understanding of Case 002. Each programme will present highlights from the week's hearings, and featured guest speakers from the court will break down major developments in the proceedings."⁵⁶⁸ Listeners also have an opportunity to call into the show in order to express their opinions or ask questions.

The ECCC's Public Affairs Section conducts outreach trips to provinces around Cambodia. During these trips, members of the Court speak to the public, provide information regarding current proceedings, and take questions. The ECCC has also produced several outreach videos to inform the public about the mandate of the court, recent developments, and information regarding future public outreach efforts.⁵⁶⁹

For further information

The ECCC's website provides information about the court's proceedings: <http://www.eccc.gov.kh/en>. One of the best ways to monitor proceedings at the ECCC is to use the court's live webstream. The court's website features a live feed of courtroom proceedings in Khmer and French. The ECCC also makes a video archive available on its website.⁵⁷⁰ The video archive contains key moments from the proceedings, including Kaing Guek Eav's statements of apology, examination of Nuon Chea, initial hearings, and a video tour of the holding cells for the accused at the ECCC. Interested observers can also witness the proceedings in person. Observers may also follow the ECCC on Twitter (@KRtribunal). The ECCC has a Facebook page, a YouTube channel (www.youtube.com/krtibunal), and a Flickr account (www.flickr.com/photos/krtibunal).

The form to file a complaint before the ECCC is available at: <http://www.eccc.gov.kh/en/forms>. Complainants may email their forms to vss@eccc.gov.kh or mail them to:

Victims Support Section
Extraordinary Chambers in the Courts in Cambodia
National Road 4
Chaom Chau, Porsenchey
P.O. Box 71, Phnom Penh, Cambodia

⁵⁶⁸ Extraordinary Chambers in the Courts of Cambodia, "ECCC's Weekly Radio Programme," accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/media-center/weekly-radio>.

⁵⁶⁹ Extraordinary Chambers in the Courts of Cambodia, "Outreach," accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/media-center/activities-outreach>.

⁵⁷⁰ Extraordinary Chambers in the Courts of Cambodia, "Video Archive," accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/video/archive>.

Victim Support Services at the ECCC

The ECCC's Victims Support Section has a Victim Information Form⁵⁷¹ that interested parties can complete and send to:

Victims Support Section
 Extraordinary Chambers in the Courts of Cambodia
 National Road 4
 Chaom Chau, Porsenchey
 P.O. Box 71, Phnom Penh, Cambodia
 Email: vss@eccc.gov.kh
 Telephone: 023 861 895 or 097 742 4218 (helpline)

While all information in the Victim Information Form must be filled out, of particular importance is:

- Applicant's name;
- Whether the applicant is applying to become a Civil Party because of crimes committed against a close family member; if so, include the name of the family member and the applicant's relationship to him/her;
- Applicant's contact address in Cambodia;
- Applicant's signature or thumbprint;
- All available information related to the crime or crimes which make the applicant a victim;
- Whether the applicant seeks to become a Civil Party to Case 003, Case 004, or both;
- A copy of the applicant's identity card (if available) or any other form of identification; and
- Any documents that support the information provided in the form, such as a photo of the victim (if available).⁵⁷²

Any person needing assistance completing the Victim Information Form may contact:

Documentation Center of Cambodia (DC-Cam)
 P.O. Box 1110; 66 Sihanouk Blvd.,
 Phnom Penh
 +855 (0) 23 211 875 (telephone)
 +855 (0) 23 210 358 (fax)⁵⁷³

Legal representation can be arranged free of charge by the VSS. In addition to the VSS, parties seeking legal representation may contact:

Cambodian Defenders Project
 #1 St. 50, Toul Tumpoung
 2, Khan Daun Penh, Phnom Penh
 www.cdpcambodia.org

Advocates can seek to be included on the ECCC's official list of counsel available to victims. Cambodian lawyers wishing to represent Civil Parties must be a current member of the Bar Association of the Kingdom of Cambodia and must be competent in criminal law and procedure at the international or national level. Foreign lawyers must:

⁵⁷¹ ECCC, "Forms," accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/forms>.

⁵⁷² Extraordinary Chambers in the Courts of Cambodia, "How can you apply to become a Civil Party in Cases 003 and 004 pamphlet," accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/how-can-you-apply-become-civil-party-cases-003-and-004>.

⁵⁷³ Ibid.

- Be a current member in good standing of a recognized association of lawyers of a United Nations member state;
- Have a degree in law or an equivalent legal or professional qualification;
- Be fluent in Khmer, French, or English;
- Have established competence in criminal law and procedure at the international or national level;
- Have relevant working experience in criminal proceedings, as a lawyer, judge or prosecutor, or in some other capacity;
- Not have been convicted of a serious criminal or disciplinary offence considered incompatible with representing a victim before the ECCC; and
- Register with the Bar Association of the Kingdom of Cambodia.⁵⁷⁴

The ECCC is notable for its procedures allowing victims to participate as Civil Parties and seek certain types of reparations. The ECCC's legal aid fund for victims also helps ensure access to the Tribunal. The ECCC's use of co-prosecutors and co-judges is a novel approach that may facilitate a stronger connection between the local population and the international tribunal, but the structure has proven problematic, and has been criticized as allowing for excessive interference from the Cambodian Government. The ECCC's prosecutions have moved slowly; some defendants have died and the prosecution of one defendant is postponed indefinitely due to the defendant's dementia.

The Special Court for Sierra Leone

Jurisdiction and mandate



The Special Court for Sierra Leone (SCSL) was mandated to, “prosecute persons who bear the greatest responsibility for serious violations of international humanitarian law and Sierra Leonean law committed in the territory of Sierra Leone since November 30, 1996.”⁵⁷⁵ The SCSL prosecuted four main types of crimes: (1) crimes against humanity; (2) violations of Article 3 common to the Geneva Conventions and of Additional Protocol II; (3) other serious violations of international humanitarian law; and (4) crimes under Sierra Leonean law.⁵⁷⁶ The SCSL was a joint effort by the Government of Sierra Leone and the United Nations.

Role of victims and witnesses

The SCSL had a Witness and Victim Support unit, but victims no longer participate in court proceedings because the appeal of the final case has concluded.⁵⁷⁷

How to bring charges

The SCSL has concluded all of its cases, with the final proceeding before the SCSL being the appeal of Charles Taylor's conviction. Charles Taylor was sentenced to 50 years imprisonment, but appealed that sentence. After Taylor's sentence was upheld on appeal in September 2013, the SCSL became the first ad hoc tribunal to complete its mandate. The SCSL will not be filing more charges or seeking more indictments.

⁵⁷⁴ Extraordinary Chambers in the Courts of Cambodia, “Legal Representation,” accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/victims-support/legal-representation>.

⁵⁷⁵ Statute of the Special Court for Sierra Leone, 2000, Art. 1.

⁵⁷⁶ *Ibid.*, Arts. 2–5.

⁵⁷⁷ Special Court for Sierra Leone, “About,” accessed Jan. 17, 2014, <http://www.sc-sl.org/ABOUT/tabid/70/Default.aspx>.

Public outreach and engagement

The SCSL's Registry's Outreach and Public Affairs unit (OPA) conducted outreach activities. Its mission was to "foster two-way communication between Sierra Leoneans and the Special Court. To achieve its mission [the Outreach and Public Affairs Unit] target[ed] the general population as well as specific groups including the military, the police, students at all levels, the judiciary, prison officers, religious leaders, civil society[,] and national and international NGOs."⁵⁷⁸ The OPA conducted outreach through town hall meetings, radio programs, publications, seminars, and trainings.⁵⁷⁹

The OPA dedicated particular attention to educating children and young adults. The outreach team conducted Training the Trainer workshops and published a training manual that has been used to create School Human Rights and Peace Clubs. Outreach activities also included quiz and debating competitions organized in local schools. Eight universities in Sierra Leone host Accountability Now Clubs. The OPA provided instruction and training and the clubs "are now self-sufficient and focus on the broader issues of justice, accountability and human rights, thereby educating people in the years to come."⁵⁸⁰

The OPA conducted additional outreach programs,⁵⁸¹ including:

- Video Screenings: Video screenings of redacted trials across Sierra Leone.
- Radio & Television Programming: Programming included expert interviews and panel discussions. Rapid response programs facilitated clarification of misunderstandings and an immediate response to deliberate misinformation.
- Tours of SCSL Facilities: Elementary and secondary school students visited the Court and participated in interactive question and answer sessions.

For further information

To learn more about the SCSL's proceedings, visit the court's website: <http://www.sc-sl.org/HOME/tabid/53/Default.aspx>. The court has published video summaries of the four main actors in the SCSL: the CDF, the RUF, the AFRC, and Charles Taylor.⁵⁸² The SCSL office in The Hague, the Netherlands, can be reached at +31 70 515 9750.

The SCSL is noteworthy in several respects. First, the SCSL was the first international tribunal to indict a sitting Head of State, Charles Taylor. Disavowing Head of State immunity in international criminal tribunals is a crucial step in the administration of justice for international atrocities. In indicting Charles Taylor, the SCSL sent an important message that even a Head of State may not escape justice for committing atrocities. Second, the SCSL was the first international tribunal to convict individuals for the recruitment and use of child soldiers, and for the crime of forced marriage. Third, the SCSL was the first hybrid court, where national judges and personnel worked alongside international judges and personnel towards the administration of justice. This model can help develop the capacity of domestic courts. Finally, the SCSL was the first international tribunal to be established in the nation where the crimes took place. The SCSL's location presented an opportunity for greater connection between the court and the local population, but its location also presented logistical problems.

⁵⁷⁸ Special Court for Sierra Leone, "Outreach and Public Affairs," accessed Jan. 17, 2014, <http://www.sc-sl.org/ABOUT/CourtOrganization/TheRegistry/OutreachandPublicAffairs/tabid/83/Default.aspx>.

⁵⁷⁹ Ibid.

⁵⁸⁰ Ibid.

⁵⁸¹ Ibid.

⁵⁸² SCSL, "Video Summaries," accessed Jan. 17, 2014, <http://www.sc-sl.org/PRESSROOM/VideoSummaries/tabid/122/Default.aspx>.

The Special Tribunal for Lebanon **Jurisdiction and mandate**



The Special Tribunal for Lebanon is the newest of the international criminal tribunals and has a limited focus. The STL was created to address the single incident of a terrorist bombing on February 14, 2005, that killed 23 individuals, including former Lebanese Prime Minister Rafiq Hariri, and injured others.⁵⁸³ The STL investigates and prosecutes persons who may be responsible for: (1) the attack on February 14, 2005; (2) attacks in Lebanon between October 1, 2004 and December 12, 2005, that are connected and are of a similar nature and gravity to the Hariri attack; and (3) attacks on any date after December 12, 2005, as decided by Lebanon and the United Nations with the consent of the UN Security Council if these attacks are connected and are of a similar nature and gravity to the attack of February 14, 2005.⁵⁸⁴

Role of victims and witnesses

The STL defines a victim as, “a natural person who has suffered physical, material or mental harm as a direct result of an attack within the Tribunal’s jurisdiction.”⁵⁸⁵ An individual meeting this definition is able to apply for official victim status and may be able to receive free representation from the tribunal’s Victims’ Participation Unit.⁵⁸⁶ The application is available on the Court’s website.⁵⁸⁷

Subject to leave from the court, a victim may be able to participate in STL proceedings, usually through a legal representative. A victim’s legal representative may be permitted to make oral or written submissions, call witnesses to testify, tender other evidence, or examine witnesses.⁵⁸⁸

The STL does not have the authority to grant compensation or reparations to a victim directly, but the tribunal encourages victims to use a certified copy of a judgment of guilt in domestic proceedings seeking such compensation.⁵⁸⁹ Article 25(4) of the STL’s statute states that “[t]he judgment of the Special Tribunal shall be final and binding as to the criminal responsibility of the convicted person.”⁵⁹⁰

How to bring charges

The STL does not have a standardized procedure for individuals and organizations to come forward with evidence of criminal conduct. Individuals or organizations with information should contact the Office of the Prosecutor.

Public outreach and engagement

The STL is tasked with communicating its mandate to the public. “The primary goal [of this outreach] is to bring the tribunal’s work closer to the Lebanese people.”⁵⁹¹ The outreach office of the STL conducts work in Arabic, English, and French. Its activities “strive[] to make the tribunal’s work transparent and accessible. [The office]

⁵⁸³ Special Tribunal for Lebanon, “About,” accessed Jan. 17, 2014, <http://www.stl-tsl.org/en/about-the-stl/creation-of-the-stl>.

⁵⁸⁴ Special Tribunal for Lebanon, “Office of the Prosecutor,” accessed Jan. 17, 2014, <http://www.stl-tsl.org/en/about-the-stl/structure-of-the-stl/the-office-of-the-prosecutor>.

⁵⁸⁵ Special Tribunal for Lebanon, “Victims’ Participation,” accessed Jan. 17, 2014, <http://www.stl-tsl.org/en/about-the-stl/structure-of-the-stl/registry/victim-participation>.

⁵⁸⁶ *Ibid.*

⁵⁸⁷ Special Tribunal for Lebanon, “Application Form For Victims,” accessed Jan. 17, 2014, <http://www.stl-tsl.org/en/about-the-stl/structure-of-the-stl/registry/victim-participation/application-form-for-participating-to-the-proceedings>.

⁵⁸⁸ STL, “Victims’ Participation,” *supra* note 585.

⁵⁸⁹ *Ibid.*

⁵⁹⁰ Statute of the Special Tribunal for Lebanon, Art. 25(4) (2006).

⁵⁹¹ Special Tribunal for Lebanon, “Outreach,” accessed Jan. 21, 2014, <http://www.stl-tsl.org/en/about-the-SH/structure-of-the-SH/registry/outreach>.

engages with specialized groups such as legal professionals, civil society organizations[,] and academic institutions in Lebanon and abroad. It does this through publications, the STL website, organizing public forums[,] and other initiatives featuring tribunal representatives and other experts.⁵⁹²

For further information

Information about the STL's proceedings is available on the tribunal's website: <http://www.stl-tsl.org/en/>. The court's website also has an Ask the Tribunal section where STL personnel answer some of the public's most frequently asked questions. Individuals in Lebanon may make an appointment to witness public hearings.⁵⁹³ The STL maintains a Facebook page (www.facebook.com/STLebanon), a Twitter account (@STLEbanon), a YouTube channel (www.youtube.com/stlebanon), a Scribd page (www.scribd.com/STLebanon), and a Flickr account (www.flickr.com/photos/stlebanon).

Individuals with information regarding criminal activity related to the STL's mandate may contact the Office of the Prosecutor at youssef6@un.org or +31 (0) 70 800 3733.

The Special Tribunal for Lebanon has several unique and progressive features that could be replicated in future tribunals. The most innovative feature of the STL is that it was established in response to what is, as compared to other international criminal tribunals, a relatively isolated act of violence. The special tribunal was formed in light of the international nature of the crime, the suspected participation of international terrorist actors, and concerns about a domestic trial. Additionally, the STL has a number of jurisdictional and procedural features that can be useful models for future tribunals. First, the STL is the first international criminal tribunal to prosecute suspects for terrorism as a distinct crime. Second, the STL is the first contemporary international court to proceed with trials in absentia. The STL has strict conditions for proceeding with trials in absentia and defense counsel must still represent the accused.⁵⁹⁴ The STL also features an autonomous pre-trial judge, as well as a defense office with status equal to that of the Office of the Prosecutor.

b. The International Criminal Court

Jurisdiction and mandate



If countries cannot or will not prosecute criminal violations in their own courts, recourse may exist with the International Criminal Court. Unlike the ad hoc tribunals, the ICC is a permanent court created to address problems as they arise throughout the world.

If an advocate's country of origin has not ratified the Rome Statute, it may be difficult to leverage the power of the ICC, due to the way the court exercises its jurisdiction. For the ICC to get involved, it must have different *types* of jurisdiction at the same time:

Substantive: The ICC is a "court of last resort" that narrowly focuses prosecution efforts on the world's most serious crimes.⁵⁹⁵ The ICC's definitions of what constitutes these "serious crimes" are provided by the Rome Statute, the governing document of the ICC.⁵⁹⁶ Article 5 of the Rome Statute defines the

⁵⁹² Ibid.

⁵⁹³ Special Tribunal for Lebanon, "Visiting the STL," accessed Jan. 17, 2014, <http://www.stl-tsl.org/en/about-the-stl/visiting-the-stl>.

⁵⁹⁴ Special Tribunal for Lebanon, "Unique Features – Trials in Absentia Are Allowed," accessed Jan. 17, 2014, <http://www.stl-tsl.org/en/about-the-stl/unique-features/trials-in-absentia-are-allowed>

⁵⁹⁵ International Criminal Court, "ICC at a Glance," accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/about%20the%20court/icc%20at%20a%20glance/Pages/icc%20at%20a%20glance.aspx.

⁵⁹⁶ Ibid.

crimes the ICC may have jurisdiction over, which include genocide, crimes against humanity, war crimes, and the crime of aggression. While the crime of aggression is specifically mentioned in Article 5, the court will not have jurisdiction over a crime of aggression until 2017 at the earliest. The Rome Statute requires an additional provision regarding the crime of aggression to be amended into the Rome Statute.⁵⁹⁷

Geographic: The ICC has geographic jurisdiction if the crimes took place on the territory of or by a national of a country that is a State Party to the Rome Statute.⁵⁹⁸ A non-State Party may also make a public declaration accepting the jurisdiction of the ICC for a particular crime.⁵⁹⁹

Temporal: The Court has temporal jurisdiction “only with respect to crimes committed after the entry into force”⁶⁰⁰ of the Rome Statute on July 1, 2002. If a country becomes a party to the Rome Statute after that date, then the court may exercise jurisdiction only over crimes committed after the country became a State Party.⁶⁰¹

As of May 1, 2013, 122 countries have accepted the jurisdiction of the ICC with respect to any and all matters that may fall within the scope of crimes handled by the ICC.⁶⁰²

Even if the ICC *can* exercise jurisdiction, however, it will not necessarily do so. Advocates must consider two further admissibility factors: (a) the crimes must be of “sufficient gravity” to justify the court taking action;⁶⁰³ and (b) the country whose domestic judicial system has responsibility to investigate or prosecute the crimes must be either “unwilling or unable” to do so genuinely.⁶⁰⁴ For example, if a government undertakes formal criminal proceedings solely to shield a person from criminal responsibility, then the ICC may act on the matter.⁶⁰⁵

There are several ways that a matter may come before the ICC. First, a State Party to the Rome Statute may ask the ICC to investigate a particular matter inside its own territory. A non-member may also seek the ICC’s involvement and accept its jurisdiction with respect to one or more particular matters. The UN Security Council may refer a particular situation to the ICC as well.⁶⁰⁶



The International Criminal Court in The Hague, Netherlands

⁵⁹⁷ Rome Statute, Art. 5, pt. 2, Art. 121, 123.

⁵⁹⁸ Ibid. Art. 12(2); International Criminal Court, “The State Parties to the Rome Statute,” accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/asp/states%20parties/Pages/the%20states%20parties%20to%20the%20rome%20statute.aspx. (A current list of State Parties appears on the ICC website at www.icc-cpi.int.)

⁵⁹⁹ Rome Statute, *supra* note 597, Art. 12(3); ICC, “ICC at a Glance,” *supra* note 595.

⁶⁰⁰ Rome Statute, *supra* note 597, Art. 11.

⁶⁰¹ Ibid. Art. 11, pt. 2.

⁶⁰² ICC, “ICC at a Glance,” *supra* note 595.

⁶⁰³ Rome Statute, *supra* note 597, Art. 17(1)(d).

⁶⁰⁴ Rome Statute, *supra* note 597, Art. 17(1)(a).

⁶⁰⁵ ICC, “ICC at a Glance,” *supra* note 595.

⁶⁰⁶ International Criminal Court, “Frequently Asked Questions,” accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/about%20the%20court/frequently%20asked%20questions/pages/faq.aspx.

The ICC's power to exercise jurisdiction over a matter through referral from the Security Council is a strong accountability tool, as it allows for the investigation and possible prosecution of international crimes even if the government of the country where the crimes occurred actively seeks to avoid the ICC's jurisdiction.

The prosecutor may also start an investigation on his or her own, if the prosecutor's office receives information justifying such action.⁶⁰⁷ Victims, witnesses, and civil society organizations may prompt the ICC to initiate an investigation to determine whether proceedings are warranted. The ICC's Office of the Prosecutor may initiate an investigation if it receives "reliable information about crimes involving nationals of a State Party or of a State which has accepted the jurisdiction of the ICC, or about crimes committed in the territory of such a State, and concludes that there is a reasonable basis to proceed with an investigation."⁶⁰⁸ The Office of the Prosecutor encourages individuals and NGOs to provide reliable information to the Office of the Prosecutor.⁶⁰⁹ The Office analyses all communications received and the extent of the analysis is affected by the detail and substantive nature of the information available.⁶¹⁰ After receiving reliable information regarding human rights abuses, the Office of the Prosecutor must obtain permission from the judges of the ICC's Pre-Trial Chamber to initiate an investigation.⁶¹¹

ICC Offers Limited Accommodations in Response to Pressure to Transfer and Defer ICC Cases

In 2010, the ICC prosecutor brought charges against six Kenyans identified as most responsible for the violence that erupted after that country's disputed 2007 presidential elections. Two of these six individuals are Uhuru Kenyatta and William Ruto, who were elected as President and Deputy President of Kenya in March 2013.⁶¹² Kenyan authorities have attempted to demonstrate that local courts are willing and able to prosecute the crimes stemming from the 2007–2008 post-election violence.⁶¹³ The East Africa Legislative Assembly and the African Union subsequently called on the ICC to defer prosecution of Kenyatta and Ruto until they leave office,⁶¹⁴ and the Kenyan Parliament voted to withdraw from the Rome Statute.⁶¹⁵

The ICC responded to these pressures by agreeing "to special rules for any defendant who performs 'extraordinary public duties at the highest national level.'"⁶¹⁶ These accommodations prompted a sharp response from civil society organizations and victims' advocates, who opposed the ICC's decision to "allo[w] absences from hearings or appearances via video link" for defendants like Kenyatta and Ruto.⁶¹⁷

To date, the ICC has taken 18 cases in 8 individual situation countries. These cases fall within situations in the Central African Republic, Côte d'Ivoire, Darfur, the Democratic Republic of the Congo, Kenya, Libya, Mali, and Uganda. The ICC is also currently undertaking preliminary investigations in at least seven other countries.⁶¹⁸

⁶⁰⁷ Rome Statute, *supra* note 597, at Art. 13(c), Art. 15(1).

⁶⁰⁸ ICC, "Frequently Asked Questions," *supra* note 606.

⁶⁰⁹ *Ibid.*

⁶¹⁰ ICC, "Office of the Prosecutor," accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/Pages/office%20of%20the%20prosecutor.aspx.

⁶¹¹ Rome Statute, *supra* note 597, Art. 15(3); ICC, "Frequently Asked Questions," *supra* note 606.

⁶¹² Press Release, All Africa, East Africa: Defer the Kenyan ICC Cases - EALA States, Oct. 24, 2013,

<http://allafrica.com/stories/201310250095.html>.

⁶¹³ Allan Ngari, *Kenya's Ongoing Battle with Complementarity at the ICC*, International Criminal Court Kenya Monitor, May 16, 2012,

<http://www.icckenya.org/2012/05/kenyas-ongoing-battle-with-complementarity-at-the-icc/>.

⁶¹⁴ Press Release, All Africa, *supra* note 612.

⁶¹⁵ Sabine Hoehn, *Kenya: Is ICC Withdrawal Down to Court's "lack of respect" for Kenyan Cooperation and Trial Relocation Requests?*,

African Arguments, Sept. 9, 2013, <http://africanarguments.org/2013/09/09/kenya-is-icc-withdrawal-down-to-courts-lack-of-respect-for-kenyan-cooperation-and-trial-relocation-requests-by-sabine-hoehn/>.

⁶¹⁶ Marlise Simons, *International Criminal Court Wrestles with Applying Law, or Bending*, New York Times, Dec. 3, 2013,

http://www.nytimes.com/2013/12/04/world/africa/as-kenyans-trial-looms-international-court-bends-for-diplomacy.html?_r=0.

⁶¹⁷ *Ibid.*

⁶¹⁸ International Criminal Court, "Situations and Cases," accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/situations%20and%20cases/Pages/situations%20and%20cases.aspx.

Role of victims and witnesses

Unlike many other international tribunals, the ICC has distinct roles for victims and for witnesses. The ICC is the first international tribunal to have a role designated for victims and victims' participation throughout the investigation and trial process. Not all victims serve as witnesses at trial—in fact, few do. Similarly, many witnesses at ICC trials are not victims of the crimes being tried.

Victims can get help from two different types of lawyers: Legal Representatives of Victims (LRVs), who are lawyers admitted to practice before the ICC but are not employed by the ICC; and the ICC's own Office of Public Counsel for Victims (OPCV).⁶²⁰ Typically, the LRVs work with victims in the field, keep victims updated on the progress of proceedings, and present the views and interests of victims to the court. The OPCV assists the LRVs from The Hague.⁶²¹

Individual victims must apply for recognition as victims before the ICC.⁶²² The application process is somewhat different in each case, but there is a standardized form that the court has used in some cases.⁶²³

After the prosecutor has initiated proceedings, the ICC gives victims at least two potential roles to play. First, the ICC enables victims to present their views and observations before the court. Through a legal representative, "victims are entitled to file submissions before the Chambers of the Court at the pre-trial stage, at trial, and during the appeals process."⁶²⁴

Second, ICC judges may order perpetrators to compensate victims if a defendant is found guilty.⁶²⁵ The Court has discretion to grant reparations individually or collectively.⁶²⁶ If the Court opts to grant collective reparations, reparations may be paid through the Trust Fund for Victims (TFV) or through an inter-governmental, international, or national organization.⁶²⁷ The TFV also has an assistance mandate, which operates separately from judicial reparation orders. As part of this mandate, the TFV provides assistance in the form of community development funds to victims of crime under the ICC's jurisdiction. Full information is available at the TFV website, located at www.trustfundforvictims.org.

Not all victims serve as witnesses at trial. Similarly, many witnesses at ICC trials are not victims of the crimes being tried. But the ICC takes measures to "protect the safety, physical and psychological well-being, dignity, and privacy of [both] victims and witnesses."⁶²⁸ Article 67 of the Rome Statute provides for public hearings as a right of

International Court of Justice



The International Court of Justice at The Hague handles cases between countries, not individuals.⁶¹⁹

⁶¹⁹ Rome Statute of the International Criminal Court, accessed Jan. 21, 2014, <http://www.un.org/law/icc/index.html>.

⁶²⁰ International Criminal Court, "Office of Public Counsel of Victims," accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/victims/office%20of%20public%20counsel%20for%20victims/Pages/office%20of%20public%20counsel%20for%20victims.aspx.

⁶²¹ International Criminal Court, "Legal Representatives of Victims," accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/victims/legal%20representation/Pages/legal%20representatives%20of%20victims.aspx.

⁶²² ICC, "Participation of victims in proceedings," accessed Jan. 21, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/victims/participation/Pages/participation%20of%20victims%20in%20proceedings.aspx.

⁶²³ International Criminal Court, "Victims' Forms," accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/victims/Pages/forms.aspx.

⁶²⁴ ICC, "Participation of victims in proceedings," *supra* note 622.

⁶²⁵ International Criminal Court, "Victims and Witnesses," accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/victims/Pages/victims%20and%20witnesses.aspx;

International Criminal Court, "Victims and Reparations," accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/victims/reparation/Pages/reparation%20for%20victims.aspx.

⁶²⁶ ICC, "Victims and Reparations," *supra* note 625.

⁶²⁷ *Ibid.*

⁶²⁸ Rome Statute, *supra* note 597, Art. 68 (1).

the accused, but Article 68(2) allows for any part of the proceedings to occur *in camera*⁶²⁹ or for the presentation of evidence to be done by electronic or other special means.

How to bring charges

The Office of the Prosecutor encourages individuals and organization with reliable information “to submit information in English or French, the working languages of the Court. Arabic, Chinese, Russian, and Spanish are also official languages of the Court. Where information is submitted in a language other than these, the Office will endeavor to obtain informal translations where possible.”⁶³⁰ Information about alleged crimes can be submitted to:⁶³¹

International Criminal Court
Office of the Prosecutor: Communications
Post Office Box 19519
2500 CM The Hague
The Netherlands.
otp.informationdesk@icc-cpi.int
Fax: +31 70 515 8555

Public outreach and engagement

The ICC has a public outreach program aimed at informing the public about the court’s proceedings. This “outreach programme has been created to ensure that affected communities in situations subject to investigation or proceedings can understand and follow the work of the Court through the different phases of its activities.”⁶³² Additionally, “[p]rogrammes and approaches are also adapted to particular circumstances, such as the phases of the judicial process, the context of operations and the specificities of target groups. The outreach programme conducts meetings with target groups and uses radio and other media to reach the public at large.”⁶³³ The ICC currently has specialized public outreach campaigns in the Central African Republic, Darfur, the Democratic Republic of the Congo, Kenya, and Uganda. These campaigns often involve an ICC field office in the locality to provide information to the public.

For further information

The ICC’s website contains more information about the ICC’s proceedings: www.icc-cpi.int. The ICC’s website also hosts a Legal Tools Project that “aspires to equip users with the legal information, digests, and software required to work effectively with international criminal law.”⁶³⁴ This project “seeks to serve as a complete virtual library on international criminal law and justice . . . [and] comprises the largest online collection of relevant documents and legal digests available through the Case Matrix Collection.”⁶³⁵ The website’s audiovisual gallery can assist individuals and organizations that want to monitor the court. The website video streams public hearings on its website, allowing interested parties to watch actual court proceedings with a 30-minute delay.⁶³⁶ An

⁶²⁹ Meaning “in private.”

⁶³⁰ International Criminal Court, “Office of the prosecutor section: Submit information on alleged crimes,” accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/office%20of%20the%20prosecutor/siac/Pages/default.aspx.

⁶³¹ *Ibid.*

⁶³² International Criminal Court, “Outreach,” accessed Jan. 29, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/outreach/Pages/outreach.aspx.

⁶³³ *Ibid.*

⁶³⁴ International Criminal Court, “Basic Legal Texts,” accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/legal%20texts%20and%20tools/Pages/legal%20tools.aspx.

⁶³⁵ *Ibid.*

⁶³⁶ ICC, “Audiovisual gallery,” accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/press%20and%20media/audiovisual%20gallery/Pages/audio%20video%20gallery.aspx.

interested party who is in The Hague may also attend hearings in person. The court has a gallery open to the public, and seats are filled on a first-come, first-served basis. The Office of the Prosecutor, “in partnership with the Sanela Diana Jenkins Human Rights Project at UCLA School of Law, has launched the Human Rights & International Criminal Law Online Forum, promoting open discussion on complex issues of international criminal law faced by the OTP.”⁶³⁷ The Forum’s website is: UCLALawForum.com.

Observers may use a number of social media tools to follow the International Criminal Court. The ICC has a Twitter account (@IntlCrimCourt), a YouTube channel (www.youtube.com/IntlCriminalCourt), a Flickr account (www.flickr.com/photos/icc-cpi), and a Facebook page (www.facebook.com/groups/icc.cpi). The Coalition for the International Criminal Court is an NGO that tracks everything that happens at the ICC. It has Twitter accounts in English (@_CICC), French (@_CICC_fr), and Spanish (@_CICC-SP). For further information, visit www.iccnw.org.

Online Form

The ICC has an online form that individuals and organizations can use to submit messages on any topic to the court: http://www.icc-cpi.int/NR/rdonlyres/3A5C243C-761C-447B-8330-88A6E343789A/144107/OPCVFormContrib_En.doc

How to Qualify as a Legal Representative of Victims

Attorneys who want to serve as a Legal Representative of Victims (LRV) before the ICC must meet the criteria set by the Rules of Procedure and Evidence and the Regulations of the Court.⁶³⁸ To qualify for admission before the ICC, candidates generally must demonstrate:

- The United Nations Security Council created the International Criminal Tribunal for Rwanda in response to the Rwandan Genocide of 1994. The ICTR is located in Arusha, Tanzania.⁶³⁹ The ICTR was created “for prosecution of persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda between January 1, 1994, and December 31, 1994. It may also deal with the prosecution of Rwandan citizens responsible for genocide and other such violations of international law committed in the territory of neighboring States during the same period.”⁶⁴⁰ The Court not only punishes genocide, but conspiracy to commit genocide, direct and public incitement to commit genocide, attempt to commit genocide, and complicity in genocide.⁶⁴¹ Established competence in international or criminal law and procedure;
- At least ten years’ relevant experience in criminal proceedings, whether as a judge, prosecutor, advocate, or similar capacity; and
- Excellent knowledge of and fluency in at least one of the working languages of the Court (English or French).⁶⁴²

Counsel also must not have been convicted of a serious criminal or disciplinary offence relevant to the nature of the office of counsel before the Court.⁶⁴³

Candidates wishing to be included in the List of Counsel must submit several standardized forms to the

⁶³⁷ ICC, “Office of the Prosecutor,” *supra* note 610.

⁶³⁸ International Criminal Court, “Defence,” accessed Jan. 17, 2014, http://www.icc-cpi.int/en_menus/icc/structure%20of%20the%20court/defence/Pages/defence.aspx.

⁶³⁹ ICTR, “About ICTR,” accessed Jan. 16, 2014, <http://www.unict.org/>.

⁶⁴⁰ *Ibid.*; Statute of the International Criminal Statute for Rwanda, 1994, Art. 1. Also available online at <http://www.unict.org/Portals/0/English%5CLegal%5CStatute%5C2010.pdf>.

⁶⁴¹ ICTR, Statute of the International Criminal Statute for Rwanda, *supra* note 552, Art. 2(3).

⁶⁴² ICC Rules of Procedure and Evidence, Art. 22(1).

⁶⁴³ ICC, “Defence,” *supra* note 638.

Registrar, as well as supporting documentation, such as a birth certificate, identity card, and detailed curriculum vitae.⁶⁴⁴ Once a candidate is admitted to the List of Counsel, he or she may be selected by any victim or group of victims in the future to provide legal assistance in relation to proceedings before the court.

The ICC's strongest feature is that it has preexisting jurisdiction over many international crimes. Another strength is that the ICC can, under Article 13 of the Rome Statute, exercise jurisdiction over crimes committed on the territory of a country that is not a party to the Rome Statute. Article 13 jurisdiction requires authorization from the UN Security Council—approval that is often difficult to obtain.⁶⁴⁵ But governments that are most likely to commit atrocities are also the ones that are most unlikely to accept the court's jurisdiction, and the nature of those atrocities and the threat of impunity may sometimes spur Security Council action.

c. Considerations for Setting up a New Tribunal

If no applicable ad hoc tribunal exists and the ICC does not have jurisdiction to prosecute a perpetrator, advocates might consider the prospect of setting up a new tribunal. Creating a temporary ad hoc tribunal to respond to a specific event or period of conflict is an extremely expensive⁶⁴⁶ and time-consuming option. With the ICC in place, there is little political will at the international level to establish a new court. It is nearly impossible to set up such a tribunal without significant and ongoing sources of financial support. If funding is available, advocates should take into account several considerations, challenges, and best practices from other tribunals that can provide guidance in determining whether it is feasible to establish an appropriate ad hoc accountability mechanism.

- (1) *Location of the Mechanism*: The Special Court for Sierra Leone (SCSL) was the first international tribunal to be established in the country where the crimes took place. The court's location presented an opportunity for greater connection and engagement between the court and the local population, but the location also presented practical problems. Security threats and safety concerns may dissuade advocates from pressing for a locally placed tribunal. Future tribunals will have to weigh the costs and benefits of locating the court in the country where the conflict occurred.
- (2) *Type of Court*: The SCSL was the first hybrid court, where national judges and personnel worked alongside international judges and personnel towards the administration of justice. The hybrid experience in the ECCC has prompted mixed reviews. Future tribunals should consider whether the value of cultivating connections between the tribunal and the national judiciary, and between international and national staff, warrants the added risk of politicization and delay.
- (3) *Victim and Witness Involvement and Available Remedies*: The ICTY and ICTR have faced criticism for not facilitating sufficient victim participation. Other tribunals, including the ECCC and the ICC, have given victims a more active role as participants, and have made reparations available in some circumstances.
- (4) *Scope of Jurisdiction*: The ICTY, ECCC, SCSL, and ICTR were all created in direct response to widespread and systematic crimes committed over a protracted period, while the STL was created to respond to a single act of terrorism. The tribunals with a broader jurisdictional mandate were forced to concentrate their efforts on prosecuting the most serious criminal offenders, while lower level perpetrators either faced a different accountability mechanism or escaped prosecution altogether. The ICTY's capacity-building program helped ensure that lower level officials could still be held accountable. This program also helped local jurisdictions become more adept at handling the prosecution of domestic crimes. The STL has been criticized for devoting significant resources to a single incident affecting a small group of individuals.

⁶⁴⁴ Ibid.

⁶⁴⁵ Russia, for example, is unwilling to recommend ICC action with regard to Syria.

⁶⁴⁶ International Criminal Tribunal for the former Yugoslavia, "The Cost of Justice," accessed Jan. 17, 2014, <http://www.icty.org/sid/325>. (The Budget at the ICTY for 2012-2013 was \$250,814,000.)

- (5) *Timeline*: Tribunals can be time-consuming. As time passes, evidence may become lost or damaged, witnesses' memories may fade, and perpetrators may flee or become incapacitated. The ECCC, for instance, was created in 2001 to address criminal events occurring between 1975 and 1979. Several of the accused died prior to or during proceedings,⁶⁴⁷ and the ongoing prosecutions of the remaining elderly defendants have encountered additional medical and logistic obstacles.

ii. Suspension from Intergovernmental Organizations

a. Commonwealth of Nations

The Commonwealth of Nations is an intergovernmental organization of 53 member states. The Commonwealth Ministerial Action Group has the authority to suspend member states from the Councils of the Commonwealth, or from the Commonwealth itself, if they engage in "serious or persistent violations" of the Commonwealth's 1991 Harare Declaration,⁶⁴⁸ such as abrogating their duty to have a democratic government.⁶⁴⁹ Members that are suspended from the Councils do not have representation at meetings of Commonwealth leaders.

Members that are fully suspended from the Commonwealth also are barred from participating in Commonwealth sporting events, such as the Commonwealth Games, and from participating in the Commonwealth's technical assistance program.⁶⁵⁰

The Commonwealth suspended Pakistan after a coup in 1999, and again after the country declared a state of emergency in 2008. Nigeria and Zimbabwe have also been suspended.⁶⁵¹

In recent years, suspension has had the most striking consequences for Fiji. Fiji was first suspended from the Councils of the Commonwealth in 2000, when a coup imposed a constitution contrary to Commonwealth principles. In 2006, after another coup, the Commonwealth suspended Fiji for a second time, subsequently expanding the sanction to a full suspension in 2009.⁶⁵² In 2012, the Commonwealth determined that "Fiji could not be reinstated into the Commonwealth until it had restored democracy by holding elections and addressed pressing human rights and legal issues."⁶⁵³ "Fiji's suspension had significant economic and diplomatic ramifications for the island nation after some foreign powers began to see the country as a 'rogue state,' resulting in a significant drop in aid and other assistance."⁶⁵⁴ Fiji's refusal to hold free and fair elections also prompted Australia and New Zealand to impose travel sanctions against the ruling military leaders and their families, and to press the UN secretariat to discontinue allowing Fiji soldiers to take part in UN peacekeeping operations.⁶⁵⁵ Fiji's suspension has also had significant ramifications for some sports fans. After winning medals at each of the first



Map of the Commonwealth countries

⁶⁴⁷ ECCC, "Key Events," accessed Jan. 17, 2014, <http://www.eccc.gov.kh/en/keyevents>.

⁶⁴⁸ Heads of Harare Government, The Harare Commonwealth Declaration, 1991. Also available online at <http://thecommonwealth.org/sites/default/files/history-items/documents/Harare%20Commonwealth%20Declaration%201991.pdf>.

⁶⁴⁹ Commonwealth Network, "Withdrawals and Suspensions," accessed Jan. 17, 2014, <http://www.commonwealthofnations.org/commonwealth/commonwealth-membership/withdrawals-and-suspension/>.

⁶⁵⁰ *Ibid.*

⁶⁵¹ *Fiji suspended from Commonwealth*, BBC News, Sept. 1, 2009, <http://news.bbc.co.uk/2/hi/8231717.stm>.

⁶⁵² *Ibid.*

⁶⁵³ *Fiji to remain suspended from Commonwealth*, One News, Apr. 17, 2012, <http://tvnz.co.nz/world-news/fiji-remain-suspended-commonwealth-4836761>.

⁶⁵⁴ Neil Merrett, *Fiji: a case study in the realities of Commonwealth suspension*, Minivan News, Apr. 24, 2012, <http://minivannews.com/politics/fiji-a-case-study-in-the-realities-of-commonwealth-suspension-36068>.

⁶⁵⁵ *Ibid.*

three Sevens Rugby competitions at the Commonwealth Games, Fiji was suspended from all play in the 2010 and 2014 games.⁶⁵⁶ As of January 2014, the full suspension remains in place.⁶⁵⁷

Gay Rights Advocates Set Sights on Commonwealth

Sexual conduct between consenting adults of the same sex is illegal in 41 of the 53 Commonwealth countries.⁶⁵⁸ In the run-up to the November 2013 meeting of Commonwealth Heads of Government in Sri Lanka, human rights activists held a protest outside the Commonwealth's Secretariat office in London, and called on Prime Minister David Cameron to raise the issue of LGBTI rights during the meeting.⁶⁵⁹ Civil society groups from throughout the Commonwealth called for Commonwealth leaders to "take action to stop widespread human rights abuses against LGBTI people."⁶⁶⁰

For further information, see Human Rights, Sexual Orientation and Gender Identity in The Commonwealth: Struggles for Decriminalisation and Change, Human Rights Consortium, Institute of Commonwealth Studies (2013), <http://commonwealth.sas.ac.uk/publications/house-publications/lgbt-rights-commonwealth>.

b. Council of Europe



The Council of Europe can also suspend and expel member states.⁶⁶¹ Article 3 of the Statute of the Council of Europe requires members to "accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms."⁶⁶² "Any member of the Council of Europe which has seriously violated the provisions laid down in Article 3 may be suspended from its rights of representation and may be asked by the Committee of Ministers to withdraw from the organisation. If the state does not agree to the request, the Committee may decide that the state has ceased to be a member of the Council as from such date as determined by the

Committee."⁶⁶³ Russia was suspended from the Council of Europe's assembly in 2000 and 2001 because of alleged human rights violations in Chechnya.⁶⁶⁴ In 2013, some observers called for the Council of Europe to suspend Azerbaijan for its failure to hold democratic elections and protect human rights.⁶⁶⁵

⁶⁵⁶ Nick Butler, *Scotland to face New Zealand as Glasgow 2014 rugby sevens draw made*, Inside the Games, Jan. 14, 2014, <http://www.insidethegames.biz/sports/summer/rugby-sevens/1017845-scotland-to-face-new-zealand-as-glasgow-2014-rugby-sevens-draw-made>.

⁶⁵⁷ *Fiji suspended from Commonwealth*, BBC News, *supra* note 651.

⁶⁵⁸ Helen Davidson, *Homosexuality Illegal in 41 out of 53 Commonwealth Countries – Report*, The Guardian, Nov. 10, 2013, <http://www.theguardian.com/world/2013/nov/10/homosexuality-illegal-in-41-out-of-53-commonwealth-countries-report>.

⁶⁵⁹ Scott Roberts, *David Cameron Urged to Raise LGBT Rights at Commonwealth Summit*, Pink News, Nov. 14, 2013, <http://www.pinknews.co.uk/2013/11/14/david-cameron-urged-to-raise-lgbt-rights-at-commonwealth-summit/>.

⁶⁶⁰ *Human rights groups report damns treatment of LGBTIs across Commonwealth*, ILGA Asia, Nov. 11, 2013, <http://ilga.org/ilga/en/article/omSCaKK19a>.

⁶⁶¹ CVCE, *Withdrawal, Expulsion and Suspension of a Member State of the Council of Europe* (Sept. 11, 2012) http://www.cvce.eu/content/publication/2006/1/9/f9b31f98-f1a1-407c-97ad-7e92363117fd/publishable_en.pdf.

⁶⁶² Statute of the Council of Europe, Art. 3. Also available online at <http://conventions.coe.int/Treaty/en/Treaties/Html/001.htm>.

⁶⁶³ CVCE, *Withdrawal, Expulsion and Suspension of a Member State of the Council of Europe*, *supra* note 661, at 2.

⁶⁶⁴ *Ibid.*

⁶⁶⁵ *Azerbaijan and the Council of Europe*, The Economist, Mar. 22, 2013, <http://www.economist.com/blogs/charlemagne/2013/03/azerbaijan>.

Chapter 9. Advocacy at the United Nations



As part of any advocacy strategy, advocates should evaluate whether to bring the matter to the attention of an international or regional human rights body. The United Nations and regional human rights bodies engage in a variety of activities to protect, monitor, and advance human rights worldwide. International and regional treaties provide the legal framework for international human rights protections and, together with the designated bodies that monitor and enforce them, provide activists with many potential avenues for improving human rights conditions around the world. Governments that resist or ignore one means of addressing human rights violations might be encouraged or compelled through another mechanism.

International and regional human rights mechanisms allow advocates to present information about local human rights violations directly to the international community. Advocates and activists should, however, think of advocacy as far more than the submission of information to the United Nations. Reports to international bodies can be used effectively as part of a larger advocacy strategy to change laws, policy, and practices. As many advocates have discovered, advocacy before international mechanisms can garner media attention, boosting local advocacy efforts.

The United Nations' international human rights mechanisms serve several functions. They enforce human rights standards, monitor human rights conditions, report on human rights violations, directly improve human rights conditions, and create treaties to protect human rights. The international human rights system functions best

when civil society organizations, academia, and community activists all participate actively. By providing credible examples of human rights violations, advocates draw attention to systemic problems.

Although accessing the international human rights system may seem daunting, people with a basic understanding of the UN human rights system and procedures can easily take part in international human rights advocacy. The United Nations has two general categories of human rights bodies: charter-based mechanisms and treaty-based mechanisms. The options for civil society organizations and groups to participate in advocacy on the international level depend on the specific activities of the mechanism they are targeting. Successful organizations engage with multiple mechanisms.

A. UN Charter-based Mechanisms

The UN human rights mechanisms that derive their power from the UN Charter (the treaty that created the United Nations) include the Human Rights Council and Special Procedures. “Charter-based” human rights bodies have the authority to review human rights practices of all members of the United Nations, regardless of whether a particular country has ratified a particular human rights treaty.

Emergency Response and Early Warning Mechanisms

The UN system and several of the regional human rights systems have emergency response and early warning mechanisms to address arbitrary detention, emerging human rights crises, and situations in which a person or group is at grave risk of imminent harm. See Chapter 11 and Appendix K for more information about how to use these emergency response tools.

i. The Human Rights Council and the Universal Periodic Review

The UN Charter called for the creation of a Commission on Human Rights, which in 2006 was reorganized into the current Human Rights Council. The Human Rights Council is an inter-governmental body within the UN system made up of 47 countries responsible for strengthening the promotion and protection of human rights around the world. The Council meets regularly to review the status of human rights in countries around the world, to address human rights violations, and to make recommendations to improve the fulfillment of human rights.⁶⁶⁶ Council members are representatives of their respective governments and are elected to staggered three-year terms. Seats on the Council are allocated geographically, with each region nominating candidate countries that are then approved by the General Assembly.⁶⁶⁷

The Universal Periodic Review (UPR) is a new human rights process under the auspices of the Human Rights Council. The UPR is a process for reviewing the human rights records of each of the 193 UN member countries once every four and one half years.⁶⁶⁸ The UPR provides the opportunity for each government to declare what actions it has taken to improve the human rights situation in its country and to fulfill its human rights obligations. As one of the main features of the Human Rights Council, the UPR is designed to ensure equal treatment for all countries when their human rights practices are evaluated.

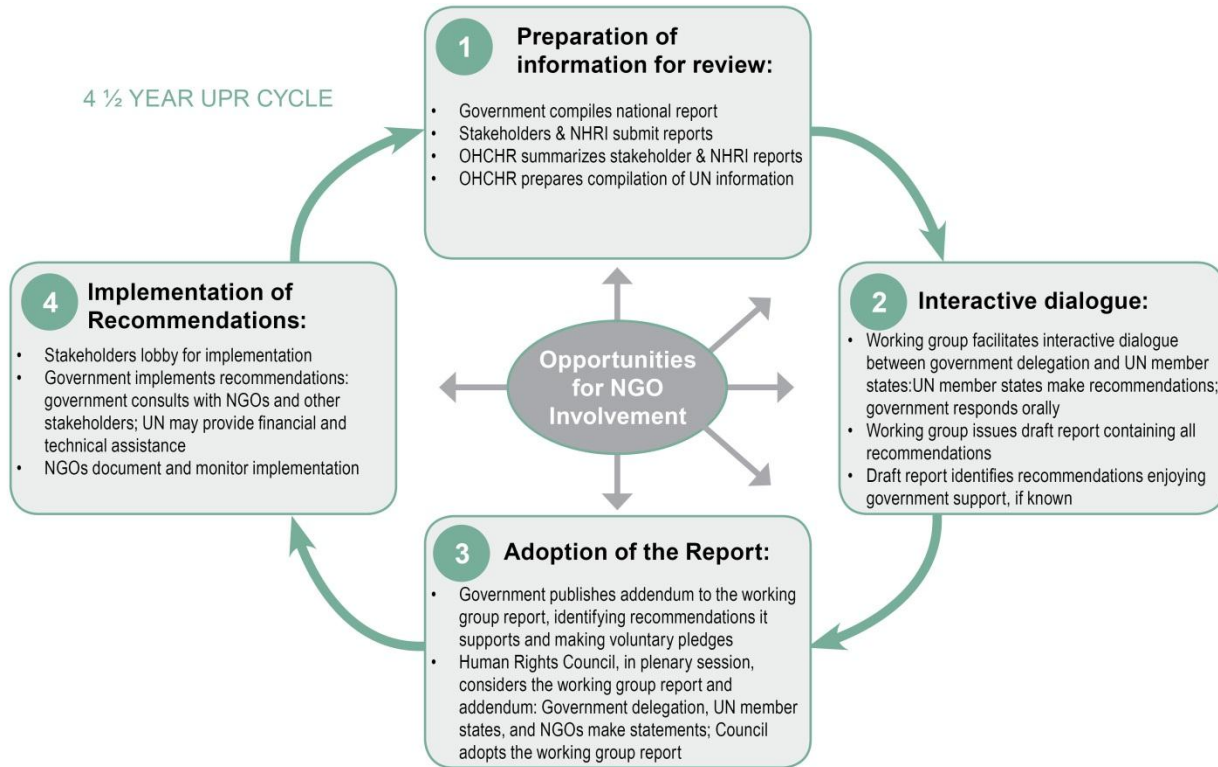
a. An overview of the UPR reporting cycle

The UPR is an important venue for governments to evaluate their own progress and for UN member countries to evaluate their peers. The UPR process consists of several stages, and each stage offers civil society organizations multiple opportunities for engagement.

⁶⁶⁶ UN Human Rights Council, “The Human Rights Council,” accessed Jan. 29, 2014, <http://www.ohchr.org/EN/HRBodies/HRC/Pages/AboutCouncil.aspx>.

⁶⁶⁷ UN General Assembly Resolution 60/251, A/RES/60/251 (Apr. 3, 2006). Also available online at <http://www.unhcr.org/refworld/docid/4537814814.html>.

⁶⁶⁸ Office of the High Commissioner on Human Rights, “Universal Periodic Review,” accessed Jan. 29, 2014, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRmain.aspx>.



Step 1: Preparation of information for the review

The government of the country under review prepares a national report, assessing its progress and challenges on human rights issues since the last review. Many governments hold national consultations with civil society as they prepare their national reports. If the country has an independent national human rights institution (NHRI), such as a human rights commission or ombudsman (see Chapter 8), the NHRI submits a separate report. At the same time, civil society organizations prepare stakeholder reports.

Staff at the United Nations' Office of the High Commissioner for Human Rights prepare a summary of the NHRI and stakeholder reports. They also prepare a compilation of any relevant information about the country's human rights record from other UN bodies.

Step 2: Interactive dialogue between government delegation and UN member countries

The UPR includes a three-hour interactive dialogue, facilitated by a Human Rights Council working group, between a government delegation from the country under review and other UN member countries. Countries may submit written questions to the government delegation in advance of the in-person dialogue. At the beginning of the review session, members of the government delegation have the opportunity to make introductory statements, which typically describe human rights conditions in the country and respond to any questions submitted in advance.

During the dialogue, any UN member country may pose questions and make comments and recommendations to the country under



An interactive dialogue at the Palais des Nations in Geneva, Switzerland.

review. Recommendations are the most important component of these “interventions,” because the country under review must formally respond to each one. Some countries have informally agreed to make no more than two recommendations during each UPR. To take the floor to make a recommendation or other comment, a country must request to speak in advance of the session. Based on the number of countries wishing to speak, the Human Rights Council places a precise time limit on each country’s intervention, typically between one and two minutes. The countries speak following an alphabetical list that starts with a different country for each UPR. Often, questions and recommendations come directly from reports submitted by non-governmental organizations. The interventions are broken up into two or more segments, and after each segment the government delegation has the opportunity to respond to any of the preceding questions or statements.

A few days after the interactive dialogue, the working group circulates a draft report containing summaries of all of the statements and a verbatim record of each recommendation. The working group holds a brief session soon thereafter to accept typographical and clerical amendments to the report. In some cases, the country under review responds quickly to the recommendations, and the draft report of the working group identifies the recommendations that enjoy the country’s support. Typically, however, the country under review defers its decision on some or all of the recommendations.

Step 3: Adoption of the working group report

The government of the country under review has several months to declare on the record whether it accepts or rejects each recommendation. It typically does so by publishing an “addendum” to the report of the working group. In this addendum, many countries also include observations about certain recommendations and offer specific commitments for implementing accepted recommendations. The addendum may also include other voluntary pledges relevant to the review. Some countries, for example, commit to submitting a progressive report within two years about the government’s progress in implementing accepted recommendations.

The Human Rights Council formally adopts the report of the working group at its next plenary session, several months after the interactive dialogue. At the plenary session, a government delegation from the country under review has the opportunity to answer questions, respond to recommendations, and make comments about issues raised during the review. Other UN member countries and NGOs with consultative status also have the opportunity to give brief comments prior to the adoption of the report of the working group.

Step 4: Implementation of recommendations

The national government has the primary responsibility to implement the recommendations it accepts and must provide information on its implementation efforts when it returns for the next review. Some governments consult with civil society as they develop implementation plans. NGOs can hold governments accountable for implementing the recommendations of the final outcome document through advocacy and monitoring. Initial evidence suggests that even if a government rejects a particular UPR recommendation, it sometimes implements some or all of it.⁶⁶⁹

b. Opportunities for civil society to participate in the UPR reporting cycle

Civil society organizations can participate in the UPR process in many ways:

⁶⁶⁹ Universal Periodic Review, *On the Road to Implementation* (Geneva, Switzerland: UPR-Info, 2012), 13, http://www.upr-info.org/IMG/pdf/2012_on_the_road_to_implementation.pdf (“[E]ven rejected recommendations are implemented, since action is taken for 15% of them (both fully and partially implemented).”).

UPR	What to do
Before the Review	Participate in consultations with the government of the country under review as it prepares its national report.
	Research, write, and submit a stakeholder report on a human rights issue in the country under review
	Lobby UN member countries to educate their representatives on issues and concerns to be raised during the review. Outreach may target embassies, consulates, and missions to the United Nations in Geneva.
During the Review	Attend the interactive dialogue in person (if the group has ECOSOC status) or monitor it via webcast
	Hold a press conference or write a press release
	Host a side event
After the Review	Lobby the government to accept recommendations
	Address the Human Rights Council during the plenary session when it adopts the report of the working group (if the group has ECOSOC status)
	Release a written statement
	Report reprisals
Between Reviews	Advocate for legislation and other reforms to implement recommendations
	Engage in consultation with the government to participate in the implementation of recommendations
	Monitor the implementation of recommendations
	Contribute to UPR-Info's Mid-Term Implementation Assessment
	Document human rights conditions relating to accepted recommendations and any emerging human rights violations in preparation for the next UPR cycle

Before the Review

Participate in consultations for the national report. Each government is supposed to consult with civil society as it prepares its national report for the UPR. Civil society organizations can lobby the government to set up consultations and can provide the government with relevant information about human rights issues, either as a formal part of a consultation process or more informally.

Submit a stakeholder report. Groups and individual human rights defenders may also prepare and submit “stakeholder reports” to the Human Rights Council, either individually or as part of a “joint stakeholder report.” The Human Rights Council is particularly interested in hearing from civil society about the “[p]romotion and protection of human rights on the ground” and “challenges and constraints in relation to the implementation of accepted recommendations and the development of human rights situations” in the country under review.⁶⁷⁰ The Human Rights Council requests that civil society groups give priority to “first-hand information” in their reports, and refer to second-hand information only in footnotes, and only if necessary.⁶⁷¹ In these reports, NGOs can provide real-life examples of the government’s failure to respect human rights obligations.

To learn more about applying for ECOSOC status, see Chapter 11.

⁶⁷⁰ Office of the High Commissioner for Human Rights, *Universal Periodic Review: Information and Guidelines for Relevant Stakeholders’ Written Submissions*, accessed Oct. 17, 2013, <http://www.ohchr.org/Documents/HRBodies/UPR/TechnicalGuideEN.pdf>, ¶¶ 6(c), (e), 9.

⁶⁷¹ *Ibid.* ¶ 12.

One advantage of the UPR process is that organizational submissions do not have to be detailed. The Human Rights Council limits submissions from a single organization to 2,815 words (approximately five pages) and from joint stakeholders to 5,630 words (approximately ten pages).⁶⁷² The reports are due approximately eight months before the interactive dialogue. The Office of the High Commissioner for Human Rights then prepares a ten-page summary of “credible and reliable information” from stakeholders, including non-governmental organizations and national human rights institutions. The summary is part of the official UPR record.

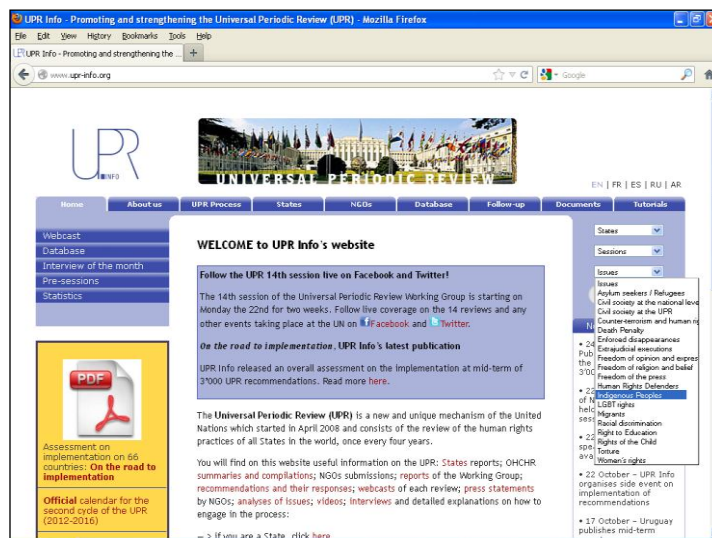
UPR Stakeholder Report Checklist

- ✓ Stakeholder reports from a single organization should not exceed 2,815 words, but reports may annex additional documentation. Joint stakeholder reports (by coalitions) should not exceed 5,630 words.
- ✓ Stakeholder reports should be submitted through the on-line UPR submissions system: <https://uprdoc.ohchr.org>. Submissions must be received by 11:59 pm Geneva time (CET) on the day of the given deadline. For deadlines, see www.ohchr.org/EN/HRBodies/UPR/Pages/NgosNhris.aspx.
- ✓ Reports should follow the structure of the General Guidelines for the preparation of information under the UPR: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NgosNhris.aspx>.
- ✓ Reports should cover no more than the 4 year-time period since the previous UPR.
- ✓ Reports should be submitted in Word format only, i.e., not as a PDF file.
- ✓ Written contributions should be submitted in UN official languages only, preferably in English, French, or Spanish.
- ✓ Each paragraph and each page of the report should be numbered.
- ✓ Reports may include an introductory paragraph or executive summary highlighting the main points in the report.

Lobby UN member countries. Civil society groups can also lobby UN member countries to encourage them to address particular issues of concern during the interactive dialogue. Statements during the interactive dialogue are time-constrained and very brief. Many countries craft their statements and recommendations long in advance of the three-hour dialogue; in a few cases, countries prepare them four months before the session.

Because the Human Rights Council is an inter-governmental body, diplomats have a hand in shaping their country’s interventions—or deciding not to intervene at all in a particular UPR. Staff at the country’s permanent mission to the United Nations in Geneva are usually responsible for drafting the intervention. But in other cases, staff at the country’s embassy in the country under review will play the lead role in writing the statement.

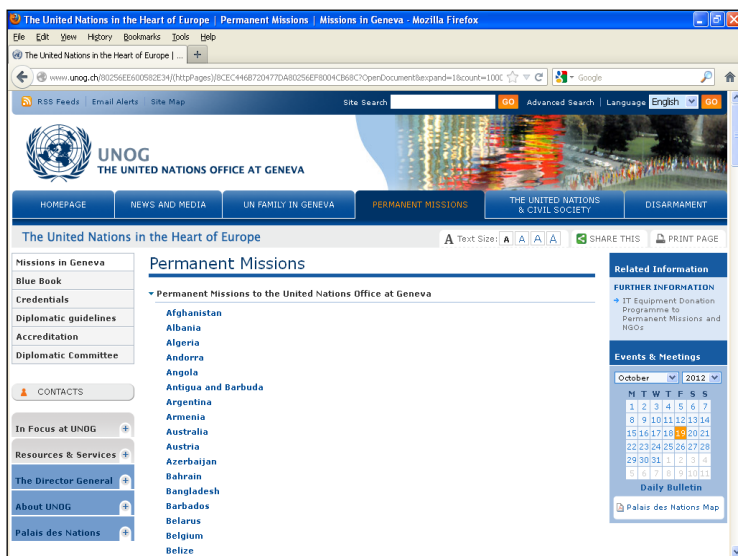
A civil society group that wants to lobby UN member countries should target its outreach to countries that may be receptive to the issues that the group’s stakeholder report addresses. The group may target countries that made



UPR-Info database issue search menu

⁶⁷² Ibid. (Word limits exclude footnotes, the substance of which are not considered during the review.)

relevant interventions during the country's previous UPRs, or countries that have made interventions on similar issues in the UPRs of other countries, or countries that may have a particular interest in the group's issues. A Geneva-based organization called UPR-Info maintains a website with a searchable database of UPR recommendations.⁶⁷³ Civil society organizations can use the database to identify potentially receptive countries.



Permanent Mission contact information

further by email or telephone if any questions arise.

During the Review

Hold a press conference. Civil society organizations can also hold a press conference about the review, issue a press release highlighting any key recommendations or any relevant statements from the government delegation.

Host a side event. NGOs attending the session in Geneva can organize side events to publicize their stakeholder reports and any recent developments relating to issues of concern.

Attend the interactive dialogue. NGOs with ECOSOC status can attend the interactive dialogue in Geneva, and anyone can watch the dialogue via live webcast. Many organizations use social media to share recommendations as they are made on the floor.

Groups can then make contact via email with the permanent missions to the United Nations in Geneva of the targeted countries. The website of the United Nations Office at Geneva (www.unog.ch) includes a database of mission contact information,⁶⁷⁴ and some missions have their own websites as well. Groups that are based inside the country under review can also contact the embassies of the targeted countries to request a meeting with a human rights officer there. In either case, groups doing outreach should attach a copy of their group's stakeholder report and a brief summary or "one-pager" of the report's main findings and proposed recommendations, along with any recent developments. They should also request a meeting, if possible, and offer to communicate

Welcome Desk for NGOs

Mandat International maintains a Welcome Desk for NGOs at the Human Rights Council in Geneva. The Welcome Desk assists with on-the-ground logistics and helps NGOs establish contacts with other organizations.

www.welcomedesk.org, welcome@mandint.org, +41 (0)22 546 23 05.

⁶⁷³ UPR-Info, "Database of UPR Recommendations," accessed Oct. 17, 2013, <http://www.upr-info.org/database/>.

⁶⁷⁴ United Nations Office at Geneva, "Permanent Missions to the United Nations Office at Geneva," accessed Oct. 17, 2013, <http://www.unog.ch/80256EE600582E34/%28httpPages%29/8CEC446B720477DA80256EF8004CB68C?OpenDocument&expand=1&count=10000#1>.

After the Review

Lobby the government to support recommendations. After the review, the government of the country under review has to decide whether it will support each recommendation. Civil society organizations can lobby the government to support recommendations and to make voluntary commitments, such as a pledge to submit a progressive report within two years about the government's progress in implementing accepted recommendations, or a standing invitation to all special mechanisms of the Human Rights Council to visit the country.

Address the Human Rights Council during the plenary session. NGOs with consultative status may address the Human Rights Council during the one-hour portion of the plenary session when it adopts the report of the working group. The Council allocates twenty minutes of the adoption session for oral statements from NGOs. The Council also publishes written versions of those statements on its website for the session. For guidelines and submission forms for these statements, consult <http://www2.ohchr.org/english/bodies/hrcouncil/guidelines.htm>.

Release a written statement. Groups can release a written statement about the outcome of the review and any next steps for ensuring implementation of accepted recommendations.

Report reprisals. On rare occasions, a government takes retaliatory steps against NGOs or individuals who participate in the UPR process. Victims of reprisals should promptly report these actions to the Human Rights Council so that it can take responsive measures.

Between Reviews

Advocate for implementation of recommendations. Between reviews, civil society groups can engage in advocacy to ensure that the government of the country under review adopts legislation and policies to implement any recommendations that enjoy the government's support.

Participate in government consultations. Some governments will consult with civil society as they determine how best to implement UPR recommendations. NGOs can lobby the government to set up these consultations, and can provide input to the government either through a formal consultation process or through other channels.

Monitor implementation. NGOs can also participate in and monitor implementation of recommendations. These monitoring efforts can be incorporated into a stakeholder report for the next UPR cycle.

Contribute to Mid-Term Implementation Assessment. UPR-Info reaches out to the organizations that submitted stakeholder reports and requests that they provide information about whether and to what extent the government has implemented recommendations—including the recommendations the government rejected. UPR-Info compiles this information into a Mid-Term Implementation Assessment.⁶⁷⁵

Continue to document human rights conditions. Groups can also document human rights conditions related to the accepted recommendations as well as any emerging human rights violations. Groups can then incorporate this information into their stakeholder reports for the next round of the UPR.

⁶⁷⁵ UPR-Info, "The Follow-Up Programme," accessed Oct. 17, 2013, <http://www.upr-info.org/followup/>.

Karen Human Rights Group Uses Fact-Finding and Advocacy to Push for Change at the UPR

The Karen people are an ethnic group residing in the southeastern region of Myanmar along the border with Thailand. The Karen Human Rights Group (KHRG) is a multi-faceted diaspora organization based in Thailand that documents and reports on human rights violations committed against the Karen people. KHRG also works to build villagers' capacity to stand up for their own human rights.

Started in 1992 by a Canadian teacher, KHRG has grown to 80 paid staff members, interns, researchers, and volunteers. Its workforce is now over 90% Karen, including top-level administrators.⁶⁷⁶ KHRG has established itself as a leading source of information; governments, non-governmental organizations, diplomats, and human rights experts—including the UN Human Rights Special Rapporteur for Myanmar and the International Labour Organization (ILO)—turn to the group for information and advice. KHRG has twice been nominated for the Nobel Peace Prize.

KHRG's primary aim is to give the Karen people a voice in the international human rights community. KHRG accomplishes this goal through the collection of data and reports from villagers on the ground in Myanmar. By compiling first-hand accounts, the group has been able to create a database of valuable, verifiable information. KHRG uses this information to issue regular updates on specific human rights violations in the region and then incorporates both the updates and the individual reports into major reports on human rights conditions. These updates and reports are important not only as a record of international human rights violations but also as a platform for individuals in the region to speak for themselves. Their voices become a source of information for media, non-governmental organizations, community based organizations, and the diplomatic community. This on-the-ground information can create pressure on the Government of Myanmar to improve human rights conditions.⁶⁷⁷



A forced laborer belonging to the Karen ethnic group

In 2010, KHRG submitted a stakeholder report for the Universal Periodic Review of Myanmar.⁶⁷⁸ During the interactive dialogue at the Human Rights Council, many countries expressed concern about the issues KHRG raised in its report.⁶⁷⁹ Italy, for example, "was concerned about human rights violations and impunity, specifically regarding the death penalty, child soldiers, torture, forced labour, sexual violence, restrictions on freedom of expression, ethnic minorities' and detainees' rights."⁶⁸⁰ Many countries recommended that Myanmar ratify human rights treaties, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. Several States recommended that the government halt the use of child soldiers.⁶⁸¹ Slovenia called for an end to the use of forced labor.⁶⁸² Additionally, several countries specifically mentioned the need for protection of the rights of ethnic and religious minorities.⁶⁸³

⁶⁷⁶ Email correspondence from The Advocates for Human Rights to Karen Human Rights Group (Oct. 14, 2013).

⁶⁷⁷ *Ibid.*

⁶⁷⁸ Karen Human Rights Group, "Myanmar: Submission UN Universal Periodic Review," Burma: KHR6, (July 5, 2010), http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/MM/KHRG_KarenHumanRightsGroup_eng.pdf.

⁶⁷⁹ Office of the High Commissioner for Human Rights, *Universal Periodic Review Myanmar*, <http://www.ohchr.org/EN/HRBodies/UPR/Pages/MMsession10.aspx>.

⁶⁸⁰ *Ibid.*, ¶ 85.

⁶⁸¹ *Ibid.*, ¶¶ 104.35, 105.9.

⁶⁸² *Ibid.*, ¶ 104.33.

In addition to giving villagers a voice on the international stage, KHRG has successfully collaborated with the ILO to reduce the use of forced labor, a major problem that villagers had identified. In biennial reports, KHRG keeps the ILO abreast of the situation in Myanmar, allowing the ILO to maintain pressure on the authorities to reduce the prevalence of forced labor. Forced labor is still a problem in some areas, but between September 2012 and September 2013, Myanmar notably ended the use of forced labor in the Bilin Township of the Thaton District.⁶⁸⁴

Indian American Muslim Council Lobbies at the UPR of India

In May 2012, Jawad Khan of the Indian American Muslim Council (IAMC) joined The Advocates for Human Rights in attending the interactive dialogue for the UPR of India. They lobbied delegates from dozens of countries to make recommendations for changes to India's anti-terrorism law to eliminate targeting of Muslims by law enforcement. The voice of the IAMC did not go unheard. The United States urged India to fully enforce laws protecting religious minorities.⁶⁸⁵ Iran urged India to improve measures preventing violence against members of religious minorities.⁶⁸⁶ In its response to the UPR, the Government of India accepted Iran's recommendation but did not respond to the recommendation from the United States.⁶⁸⁷



Jawad Khan of the IAMC (right) meeting with a delegate from the Government of Denmark before the UPR of India in 2012

The Advocates for Human Rights submits stakeholder report on the rights of ethnic minorities for the UPR of Ethiopia

The Advocates for Human Rights submitted a report on the promotion and protection of human rights of ethnic minorities for the UPR of Ethiopia, scheduled for April 2014. The report documents the Government of Ethiopia's failure to meet its international human rights obligations, particularly with respect to the rights to equality, life, liberty, security, privacy, and the freedom of expression and association. Ethnic groups such as the Oromo and the Annuak, among others, suffer the greatest consequences of policies that fail to protect, and even infringe upon, these basic human rights.

⁶⁸³ Ibid., ¶¶ 104.29, 104.49, 104.52, 104.53, et al.

⁶⁸⁴ Karen Human Rights Group, "Forced Labour and Indiscriminate Firing in Hpapun District, June and July 2012," Oct. 11, 2013, <http://www.khrg.org/2013/10/13-13-nb1/forced-labour-and-indiscriminate-firing-hpapun-district-june-and-july-2012>; Karen Human Rights Group, "Persistent Forced Labour Demands Stop in Six Villages in Vilin Township as of September 2012," July 4, 2013, <http://www.khrg.org/2013/07/13-6-nb1/persistent-forced-labour-demands-stop-six-villages-bilin-township-september-2012>.

⁶⁸⁵ UN Doc. A/HRC/21/10, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-10_en.pdf, ¶ 138.72.


⁶⁸⁶ Ibid., ¶ 138.79.

⁶⁸⁷ UN Doc. A/HRC/21/10/Add.1, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A.HRC.10.Add.1_en.pdf.

The Advocates' stakeholder report draws on information gathered from the Oromo diaspora in the United States. The Oromo people endure sustained persecution by the Ethiopian Government. The Oromo are subject to arbitrary arrests, detention without charge, and torture. Oromos who live in rural areas are also subject to the Government's "Villagization Program," which relocates indigenous people from their homes to other rural lands that are not suitable for agriculture and lack vital infrastructure, including schools.

Additionally, the Government maintains several laws suppressing many types of government opposition. Regulations of charities so severely limit international funding of non-governmental organizations—particularly those working in the area of human rights—that, during the 2009 UPR, Canada, the Netherlands, and the United Kingdom all called for amendments to Ethiopia's charities law. An anti-terrorism law also drew criticism because it allows the Government to target groups under the pretext that they are associated with terrorist organizations. Ethiopia has not amended or repealed either of these laws, despite recommendations by the international community.

Oromos also report experiencing ongoing prejudice. They commonly suffer from employment discrimination. Oromos who do not overtly express support for the Government are often transferred to undesirable posts or are unable to find employment at all. The Oromo frequently face limited access to food assistance and other state-distributed resources. International human rights standards prohibit these kinds of discrimination based on race and ethnicity.



Submission to the United Nations Human Rights Council
Nineteenth Session of the Working Group on the UPR (Second Cycle) (Apr-May 2014)
Ethiopia

**Written statement submitted by The Advocates for Human Rights,
a non-governmental organization in special consultative status
pursuant to HRC resolution 5/1 of 18 June 2007**

I. BACKGROUND INFORMATION

The Advocates for Human Rights (AHR) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. AHR conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. AHR holds special consultative status with the Economic and Social Council.

AHR has worked extensively with members of the Ethiopian diaspora, both in the context of asylum and other immigration proceedings, and for purposes of documenting human rights conditions in Ethiopia. Since 2004, AHR has documented reports from members of the Oromo ethnic group living in diaspora in the United States of human rights abuses they and their friends and family experienced in Ethiopia.¹ AHR conducted over 70 interviews of Ethiopians, including Oromo and other ethnic group members; scholars; immigration attorneys; medical professionals; and other service providers working with Ethiopians in the United States. In addition, AHR monitors news and human rights reporting on events in Ethiopia.

Based on this information, AHR is gravely concerned about the continued human rights violations against the Oromo people committed by the Government of Ethiopia, as reported by Ethiopian nationals living in diaspora in the United States and by news media and human rights organizations monitoring conditions in Ethiopia. Despite credible, sustained reports of human rights abuses committed by the Ethiopian Government since coming to power in 1991, and a change in the elected prime minister in 2012, the Government of Ethiopia continues practices that violate its international human rights obligations and, in the view of many in the diaspora community, conditions have deteriorated since Ethiopia's initial UPR.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Implementation of international human rights obligations

1. Equality and non-discrimination

In practice, the Government of Ethiopia directly and indirectly discriminates against several disadvantaged ethnic groups, including but not limited to, the Oromo and the Amhara. This discrimination is often related to discrimination on the basis of real or perceived political opinion. Despite constituting a large portion of the Ethiopian population, the Oromo people face discrimination on the basis of ethnicity. While Ethiopia's Common Core Document contends that "[t]he Ethiopian legal system unequivocally guarantees equality before the law and the equal

330 Second Avenue South • Suite 800 • Minneapolis, MN 55401-2211 • USA
Tel: 612.341.3302 • Fax: 612.341.2971 • Email: hrinfo@advrights.org • www.theadvocatesforhumanrights.org



Kachin women in traditional dress

Kachin Women's Association Thailand (KWAT)

The Kachin people, a group native to north Myanmar, have suffered extensive human rights violations by the country's government. Consequently, a growing number of Kachin are escaping to Thailand. A group of women recognized growing social and economic problems in the Kachin community, and created the Kachin Women's Association Thailand (KWAT). The founders saw an "urgent need for women to organize themselves to help solve these problems both in Kachin State and in Thailand."⁶⁸⁸

KWAT uses a multi-pronged approach to address human rights violations against the Kachin. Among its service programs, KWAT works to increase awareness of human trafficking issues and provides support to trafficking victims. It has established a health program, including a clinic, in Myanmar for the Kachin people and it has a migrant worker support program in Thailand.

KWAT engages in advocacy as well. It collects data and documents human rights abuses in Myanmar through interviews of members of the diaspora community. It then incorporates that information into published reports. Recently KWAT released two publications, one on human trafficking and another on violence against civilians by the Myanmar military.⁶⁸⁹ The organization uses these reports to assist in its international advocacy by providing concrete data to support its positions—data on which policymakers can rely in their decision-making.

KWAT also contributes to reports submitted to the United Nations.⁶⁹⁰ In January 2011, KWAT coauthored a stakeholder report for the Universal Periodic Review of Myanmar. Several of KWAT's concerns—including limitations on the freedom of expression, discrimination against the Rohingya ethnic group, and the use of child soldiers—were echoed in the interactive dialogue by delegates from the governments of Canada, Indonesia, and Norway, among others.⁶⁹¹

c. Human Rights Council Complaint Procedure

The Complaint Procedure of the Human Rights Council is a confidential, victim-oriented mechanism established to allow the Human Rights Council to address consistent patterns of gross human rights violations. After receiving a communication from an individual or group claiming to be a victim or having direct knowledge of a human rights violation, the Working Group on Communications assesses the admissibility and merits of the communication. That group may then pass the communication along to the Working Group on Situations, which determines whether there is a pattern of "gross and reliably attested violations of human and fundamental freedoms," considers the country's reply, and presents a report and recommendations for action to the full Human Rights Council.⁶⁹²

⁶⁸⁸ Kachin Women's Association Thailand, "About Us," accessed Jan. 14, 2014, <http://www.kachinwomen.com/about-us.html>.

⁶⁸⁹ Kachin Women's Association Thailand, "Publications," accessed Jan. 14, 2014, <http://www.kachinwomen.com/publications.html>.

⁶⁹⁰ Burma Forum on Universal Periodic Review, "Joint Submission," July 5, 2010, http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/MM/JS3_JointSubmission3_eng.pdf.

⁶⁹¹ *Report of the Working Group on the Universal Periodic Review: Myanmar*, (May 27, 2011), UN Doc A/HRC/17/9/Add.1. Also available online at http://lib.ohchr.org/HRBodies/UPR/Documents/Session10/MM/A_HRC_17_9_Add.1_Myanmar_E.pdf.

⁶⁹² Office of the High Commissioner for Human Rights, "Working with the United Nations Human Rights Programme: A Handbook for Civil Society" (2008), 169, <http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook8.pdf>; Office of the High Commissioner for

Any group or individual who is the victim of human rights violations may submit a complaint under this procedure, as may any other group or individual with direct and reliable knowledge of such violations. The council's complaint procedure is the only universal complaint procedure covering all human rights and all fundamental freedoms in all countries.

One advantage of submitting a complaint through the Human Rights Council is communications under it are not tied to the acceptance of treaty obligations by the country concerned or the existence of a special procedures mandate. One disadvantage of this complaint procedure is that it neither compensates alleged victims nor offers a remedy in individual cases.

Complaint Procedure Form and Format

The Human Rights Council has a Complaint Procedure form, replicated in Appendix J.

To be admissible,⁶⁹³ the communication must:

- Be related to a violation of human rights and fundamental freedoms;
- Be consistent with the Charter of the United Nations, the Universal Declaration of Human Rights and other applicable instruments in the field of human rights law;
- Give a factual description of the alleged violations, including the rights which are alleged to be violated;
- Be submitted by
 - a person or a group of persons claiming to be the victims of violations of human rights and fundamental freedoms, or
 - any person or group of persons, including non-governmental organizations, acting in good faith in accordance with the principles of human rights, not resorting to politically motivated stands contrary to the provisions of the Charter of the United Nations and claiming to have direct and reliable knowledge of the violations concerned; and
- Demonstrate that domestic remedies have been exhausted, unless it appears that such remedies would be ineffective or unreasonably prolonged.

The communication must not:

- Be manifestly politically motivated;
- Use abusive language;
- Be based exclusively on reports disseminated by mass media; or
- Refer to a case that appears to reveal a consistent pattern of gross and reliably attested violations of human rights already being dealt with by a special procedure, a treaty body or other United Nations or similar regional complaints procedure in the field of human rights.

For more information on the complaint procedure of the Human Rights Council, consult

<http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx>.

d. Special Procedures of the UN Human Rights Council

The United Nations has “Special Procedures” to address specific country situations and broad human rights themes. “UN Special Procedures” is a generic term designating a series of human rights protection mechanisms

Human Rights, “Human Rights Council Complaint Procedure,”

<http://www.ohchr.org/EN/HRBodies/HRC/ComplaintProcedure/Pages/HRCComplaintProcedureIndex.aspx>.

⁶⁹³ Office of the High Commissioner for Human Rights, “Human Rights Council Complaint Procedure,” *supra* note 692.

under the Human Rights Council. Special Procedures are made up of experts investigating thematic or country-specific international human rights issues.⁶⁹⁴



Rita Izsák, UN Independent Expert on minority issues, addresses the Human Rights Council on Human Rights Day in 2013.

Like the UPR, Special Procedures can address human rights issues in a country regardless of whether that country has ratified a particular human rights treaty. Special Procedures often emphasize visits to the countries in question. By conducting country visits, Special Procedures can generate greater visibility and media attention. A group that engages in advocacy with Special Procedures can also conduct parallel advocacy through the UPR and with relevant UN treaty bodies and other mechanisms.⁶⁹⁵

The UN General Assembly establishes a Special Procedure by adopting a resolution that identifies the Special Procedure and its mandate. Special Procedures are therefore often called “mandate-holders.” Special Procedures usually have the power to examine, monitor,

and publicly report on human rights situations in specific locations (known as country mandates), or on major human rights issues worldwide (known as thematic mandates).

Special Procedures mandate-holders are either an independent expert serving in an individual capacity (called a “Special Rapporteur,” “Special Representative of the Secretary-General,” or “Independent Expert”), or a working group usually composed of five members representing different geographic regions.⁶⁹⁶ As discussed in Chapter 10, some regional human rights mechanisms also have Special Procedures.

Special Procedures typically engage in the following types of activities: examining, monitoring, and advising various bodies on human rights situations; publicly reporting on human rights situations; responding to individual complaints; visiting countries or regions; conducting studies; providing advice on technical cooperation; and engaging in human rights promotion.⁶⁹⁷ Special Procedures conduct investigations through country visits or expert consultations. They promote human rights by developing human rights standards, engaging in advocacy, conducting awareness raising, giving technical advice to states and other international bodies, and making public statements in the form of annual and specific thematic reports.

Each Special Procedure has its own mandate and particular tasks, but most mandate-holders can receive information on specific allegations of human rights violations and send urgent appeals or letters of allegation to governments asking for clarification. Special Procedures may address these allegations in periodic reports or in urgent appeals issued to government authorities. In 2008, UN Special Procedures sent more than 900 communications to 118 countries.⁶⁹⁸ Each Special Procedure reports annually to the Human Rights Council and/or the UN General Assembly.

⁶⁹⁴ Track Impunity Always, “The UN special procedures,” accessed Sept. 12, 2013, <http://www.trial-ch.org/en/resources/international-law/human-rights-and-impunity/existing-mechanisms/the-united-nations-system/the-un-special-procedures.html>.

⁶⁹⁵ Anne Bayefsky, “How To Complain About Human Rights Treaty Violations: Choosing a Forum,” § 3(j), http://www.bayefsky.com/complain/44_forum.php.

⁶⁹⁶ Amnesty International, “The ‘Job’ of a UN Special Procedure mandate-holder,” accessed Sept. 12, 2013, <http://www.amnesty.org/en/united-nations/special-procedures/the-job>.

⁶⁹⁷ Office of the United Nations High Commission for Human Rights, “Special Procedures of the Human Rights Council,” <http://www2.ohchr.org/english/bodies/chr/special/index.htm>.

⁶⁹⁸ *Ibid.*

Special Procedures work closely with non-governmental organizations, human rights institutions, and victims. Mandate-holders work on a volunteer basis; the United Nations pays for only travel and living expenses. The Office of the High Commissioner for Human Rights provides Special Procedures with some administrative and research support.

Special Procedures with Thematic Mandates	
Special Rapporteurs:	Independent Experts on:
in the field of cultural rights	the effects of foreign debt
on adequate housing as a component of the right to an adequate standard of living	human rights and international solidarity
on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment
on contemporary forms of slavery, including its causes and consequences	minority issues
on extrajudicial, summary or arbitrary executions	the promotion of a democratic and equitable international order
on extreme poverty and human rights	Working Groups on:
on freedom of religion or belief	arbitrary detention
on the human right to safe drinking water and sanitation	enforced or involuntary disappearances
on the human rights of internally displaced persons	the issue of discrimination against women in law and practice
on the human rights of migrants	the issue of human rights and transnational corporations and other business enterprises
on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes	people of African descent
on the independence of judges and lawyers	the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination
on the promotion and protection of human rights and fundamental freedoms while countering terrorism	
on the promotion and protection of the right to freedom of opinion and expression	

Special Rapporteurs:
on the promotion of truth, justice, reparation and guarantees of non-recurrence
on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health
on the right to education
on the right to food
on the rights of indigenous peoples
on the rights to freedom of peaceful assembly and of association
on the sale of children, child prostitution and child pornography
on the situation of human rights defenders
on torture and other cruel, inhuman or degrading treatment or punishment
on trafficking in persons, especially women and children
on violence against women, its causes and consequences

Special Procedures with Country Mandates	
Independent Experts on the situation of human rights in:	Special Rapporteurs on the situation of human rights in:
Côte d'Ivoire	Belarus
Haiti	Cambodia
Somalia	the Democratic People's Republic of Korea
the Sudan	Eritrea
	the Islamic Republic of Iran
	Myanmar
	the Palestinian Territories occupied since 1967
	the Syrian Arab Republic

Appendix K contains a table with the contact information for each UN Special Procedure, as well as for special procedures at the regional human rights mechanisms.

There are several ways to use Special Procedures to address human rights issues. First, advocates can **prepare and present written information** when the Special Procedure is studying a particular issue or conducting a country visit. Second, they can assist with **hosting the mandate-holder and providing support for arranging meetings with relevant stakeholders** during a country visit. Third, they can **meet in person** with the Special Procedure to provide first-hand information about human rights issues. Fourth, they can **request an examination** of a particular human rights issue or **request a country visit** to investigate an issue of concern. Fifth, they can **submit a communication**—either an **“urgent appeal”** or a **non-urgent allegation letter**—to the Special Procedure about an alleged human rights violation.⁶⁹⁹ See Chapter 11 and Appendix I for more information about urgent appeals.



Fartuurn Adan, Executive Director of the Elman Peace and Human Rights Centre, makes a statement during the Human Rights Council's consideration of a report from the Independent Expert on Somalia in September 2013.

Special Procedures: Country Visits

Country visits (also called field visits or fact-finding missions) are an important tool available to Special Procedures mandate-holders. Special Procedures typically send a letter to a Government requesting to visit the country, and, if the Government agrees, an invitation to visit is extended. Some countries have issued “standing invitations,” which means that they are, in principle, prepared to receive a visit from any Special Procedure. Country visits are guided by the provisions contained in the Code of Conduct and the terms of reference for fact-finding missions by special procedures (see <http://www.ohchr.org/EN/HRBodies/SP/Pages/CountryandothervisitsSP.aspx>).

Country visits allow Special Procedures to assess the general human rights situation and/or the specific institutional, legal, judicial, and administrative situation in a given State, under their respective mandates. During these visits, they meet national authorities, representatives of civil society, victims of human rights violations, the United Nations country team, academics, the diplomatic community, and the media.



The Special Rapporteur on adequate housing (left) speaking with residents during a country visit to Haiti in 2011

⁶⁹⁹ Office of the High Commissioner for Human Rights, “Special Procedures,” in *Working With the United Nations Human Rights Programme: A Handbook for Civil Society* (New York and Geneva: UNHCR, 2008), 107–34.

On the basis of their findings, they make recommendations in public reports. These reports are submitted to the Human Rights Council. Some Special Procedures also hold press conferences and issue preliminary findings at the end of a country visit. The success of country visits is greatly enhanced by the commitment of the Government and the participation of civil society actors, before, during, and after the visit.

Allegation letters

Individual human rights defenders and civil society organizations can send individual complaints about alleged human rights violations to Special Procedures through the Office of the High Commissioner for Human Rights.⁷⁰⁰ These complaints may be either:

(i) **Urgent Appeals:** cases where the alleged violations are time-sensitive, meaning there is a risk of loss of life, a life-threatening situation, or other imminent situation of a grave nature to the victims (discussed in greater detail in Chapter 11, Part D); or

(ii) **Allegation Letters:** other requests processed in a timely matter that are not addressed under urgent appeals, such as information about violations that have already occurred or similar requests.

Special Procedures receive information from various sources but typically have no formal procedure to submit complaints. For all Special Procedures communications, the submission should describe clearly and concisely the facts of the incident or specific human rights violation, including the following:

- The alleged victim(s);
- The alleged perpetrators of the violation;
- The person(s) or organization(s) submitting the communication (this information will be kept confidential);
- The date and place of incident; and
- A detailed description of the circumstances of the alleged violation.

Allegation letters should not be based solely on media reports. To be admissible, the allegation letter must: “not be anonymous; not contain abusive language; not convey an overtly political motivation; describe the facts of the incident and the relevant details referred to above, clearly and concisely.”⁷⁰¹

Some Special Procedures may require other details pertaining to the specific alleged violation. Several Special Procedures have their own model questionnaire requiring particular additional details. To facilitate the consideration of reported violations, questionnaires relating to several mandates are available to persons wishing to submit complaints about alleged violations, see:

www.ohchr.org/EN/HRBodies/SP/Pages/QuestionnairesforsubmittingInfo.aspx. Special Procedures will consider communications even when they are not submitted in the form of a questionnaire.

Individuals and organizations are also encouraged to provide updates on new developments relating to a communication they have brought to the attention of a Special Procedure by sending such information to urgent-action@ohchr.org and to the mandate-holder(s) to which they have addressed their submission. Such updates

⁷⁰⁰ Communications may be submitted either by completing the relevant form or questionnaire available on <http://www2.ohchr.org/english/bodies/chr/special/questionnaires.htm> or by e-mail (urgent-action@ohchr.org) or postal mail to: Quick Response Desk, Office of the High Commissioner for Human Rights, UN Office at Geneva, 8-14 avenue de la Paix, 1211 Geneva 10.

⁷⁰¹ Office of the High Commissioner for Human Rights and UN Staff College Program, *Human Rights: A Basic Handbook for UN Staff*, 50. Also available online at <http://www.ohchr.org/Documents/Publications/HRhandbooken.pdf>.

could relate to the release of a concerned individual from detention, or a new court judgment or a measure taken by the concerned authorities to improve the situation, for example.⁷⁰²

Special Procedures: General Guidelines for Submitting an Allegation Letter

- ✓ Describe clearly and concisely the facts of the incident:
 - Identity of the victims
 - Identity of the alleged perpetrators
 - Identity of the person or organization submitting the allegation letter (this information will be kept confidential)
 - Date and place of incident
 - Detailed description of the circumstances of the incident in which the alleged violation occurred
 - Other documents and details (medical information, places of detention, etc.).
- ✓ Identify the exact UN Special Procedure most closely related to the case and follow any specific requirements it has for allegation letters.
- ✓ Submit the allegation letter in a primary UN language (English, Spanish, or French) and if at all possible in English.
- ✓ Clearly establish that the incident was a violation of human rights.
- ✓ For allegation letters relating to legislation, submit a copy of the text of the (draft) law, preferably translated into English, French, or Spanish. Provide information why the legal provisions or the application of the law is allegedly incompatible with international human rights standards.
- ✓ Make a clear argument to why rights have been violated.
- ✓ DO NOT leave anything out. The person submitting the allegation letter has far more information about the situation than the United Nations does.
- ✓ DO NOT use any abusive language or language that is obviously politically motivated.
- ✓ DO NOT base the allegation letter solely on media reports.

For more information visit: <http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>.

People who are interested in submitting an allegation letter should consult the website of the particular Special Procedure for further information. For example, the main website for the Special Rapporteur on adequate housing has a sidebar with information on individual complaints, which individuals and groups may submit at any time:

The screenshot shows the United Nations Human Rights website. The main header includes the UN logo and the text 'United Nations Human Rights Office of the High Commissioner for Human Rights'. Below the header is a navigation menu with links like 'Home', 'Your human rights', 'Countries', 'Human rights bodies', 'News and events', 'Human rights - New York', 'Publications and resources', and 'About us'. The main content area is titled 'Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context'. It contains introductory text about the role of the Special Rapporteur and a link to a fact sheet. Below this is a section titled 'The human right to adequate housing' with a small image of a slum and text defining the right. On the right side, there is a sidebar titled 'In this section' with a list of links: 'Introduction', 'Overview of the mandate', 'International Standards', 'Individual Complaints', 'Annual Reports', 'Country Visits', 'Documents', 'Links', and 'Feature stories'. A red arrow points to the 'Individual Complaints' link.

Special Rapporteur on Housing: Individual Complaint information

⁷⁰² Office of the High Commissioner for Human Rights, “Special Procedures – Communications,” <http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx>.

The Special Rapporteur on the sale of children, child prostitution and child pornography offers a checklist of information to include in an allegation letter:

1. GENERAL INFORMATION	<ul style="list-style-type: none"> • Does the incident involve an individual or a group? • If it involves a group please state the number of people involved and the characteristics of the group: • Number of boys/adolescents: • Number of girls/adolescents: • Country(ies) in which the incident took place: • Nationality(ies) of the victim(s):
2. IDENTITY OF THE PERSONS CONCERNED	<p>Note: if more than one person is concerned, please attach relevant information on each person separately.</p> <ul style="list-style-type: none"> • Family name: • First name: • Sex: • Birth date or age: • Nationality(ies): • Ethnic background (if relevant):
3. INFORMATION REGARDING THE ALLEGED VIOLATION	<ul style="list-style-type: none"> • Date: • Place (location country/countries): • Time: • The nature of the incident (please describe the circumstances with reference to the categories listed under General Information): • Number of perpetrator(s): • Are the perpetrator(s) known to the victim? • Nationality of perpetrator(s): • Agents believed to be responsible for the alleged violation: • State agents (specify): • Non State agents (specify): • If it is unclear whether they were state or non-state agents, please explain why. • If the perpetrators are believed to be State agents, please specify (military, police, agents of security services, unit to which they belong, rank and functions, etc.), and indicate why they are believed to be responsible; be as precise as possible. • If an identification as State agents is not possible, do you believe that Government authorities or persons linked to them, are responsible for the incident, why? • If there are witnesses to the incident, indicate their names, age, relationship and contact address. If they wish to remain anonymous, indicate if they are relatives, bypassers, etc.; if there is evidence, please specify.
4. STEPS TAKEN BY THE VICTIM, HIS/HER FAMILY OR ANY ONE ELSE ON HIS/HER BEHALF?	<ul style="list-style-type: none"> • Indicate if complaints have been filed, when, by whom, and before which State authorities or competent bodies (i.e., police, prosecutor, court) • Other steps taken • Steps taken by the authorities: • Indicate whether or not, to your knowledge, there have been investigations by the State authorities; if so, what kind of investigations? Progress and status of these investigations; which other measures have been taken? • In case of complaints by the victim or its family, how have those authorities of other competent bodies dealt with them? What has been the outcome of those proceedings?

<p>5. IDENTITY OF THE PERSON OR INSTITUTION SUBMITTING THIS FORM</p>	<ul style="list-style-type: none"> • Family name: • First name: • Status: individual, group, nongovernmental organization, intergovernmental agency, Government. Please specify: • Contact number or address (please indicate country and area code): • Fax: • Telephone: • Email: • Please state whether you want your identity to be kept confidential: • Date you are submitting this form: • Signature of author:
<p>http://www.ohchr.org/EN/Issues/Children/Pages/IndividualComplaints.aspx</p>	

See Appendix I to determine whether a particular special procedure has a model questionnaire or checklist for urgent appeals and allegation letters.

Identifying other opportunities to engage with Special Procedures

There is no single website with all potential opportunities to contribute to the work of Special Procedures. Civil society groups therefore have to do some homework to see whether such opportunities exist and what the submission deadlines are. The following examples display some of the ways in which special mechanisms announce opportunities to contribute.

The screenshot shows the UN Human Rights Council website page for 'Business and human rights'. The navigation bar includes links for Home, Your human rights, Countries, Human rights bodies, News and events, Human rights - New York, Publications and resources, and About us. The main content area is divided into three columns:

- Overview:** A text block explaining the process of globalization and the role of non-state actors, accompanied by a photo of people in a factory setting.
- Latest news:** A list of recent news items, including 'India: Urgent call to halt Odisha mega-steel project amid serious human rights concerns' and 'The impact of businesses on human rights in Latin American and the Caribbean - First regional debate'.
- Highlights:** A list of key events, including 'Regional forum on business and human rights for Latin America and the Caribbean' and 'Summary of discussions of the Forum on Business and Human Rights'.
- In this section:** A vertical sidebar menu listing various sub-sections such as 'Business and Human Rights overview', 'International standards', 'Members', 'Working methods', 'Country visits of the Working Group', 'Working Group events and statements', 'Forum on Business and Human Rights', 'Resolutions and decisions', 'Reports and other documents', 'Business and human rights surveys', and 'Submissions'. A red arrow points to the 'Submissions' link.

The Working Group for business and human rights has a separate section on its webpage for all “submissions.”

The screenshot shows the United Nations Human Rights Office website for the Democratic People's Republic of Korea. The page is organized into several columns. On the left, there are sections for 'Useful Information' (including News archives and Universal Review), 'Calendar of Events', and 'Publications' (listing OHCHR reports and management plans). The central column is titled 'Democratic People's Republic of Korea' and includes a map of the country with a red arrow pointing to a 'Call for submissions' link. Below the map, there are sections for 'Special Procedures Country-specific procedure' and 'Most recent concluding observations'. On the right, there is a 'Contact Information' section with details for the Headquarters, Field Operations and Technical Cooperation Division, and the Asia Pacific Section. At the bottom right, there is a 'Links' section with a 'UN links' option.

The Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea occasionally has a “call for submissions” on a particular topic or for a particular inquiry.

Each Special Procedure has its own approach to consulting with civil society organizations. For example, the Working Group on the issue of human rights and transnational corporations and other business enterprises has a separate “submission” page that provides basic background and further instructions.

The screenshot shows the United Nations Human Rights Office website for the Working Group on Business and Human Rights. The page is titled 'Submissions' and provides detailed information about the Working Group's mandate and procedures for receiving submissions. A red box highlights a specific call for submissions dated 4 November 2011, which reads: "4 November 2011 – 'Have your say! Help a new UN body ensure respect for human rights by business'". Below this, there is a paragraph stating: "Pursuant to the above call for suggestions for the programme of the new Working Group on the issue of human rights and transnational corporations and other business enterprises, the following contributions were received:".

That link leads to a webpage containing detailed information about the opportunity to contribute and the relevant deadlines:

Have your say! Help a new UN body ensure respect for human rights by business

GENEVA (4 November 2011) – A new United Nations expert body™ charged with the promotion of respect for human rights by business of all sizes, in all sectors, and in all countries, is inviting governments, companies, trade unions, international agencies, national human rights institutions and NGOs to share their thoughts to help it establish its work programme.

The UN Working Group on Human Rights and Transnational Corporations and Other Business Enterprises will take into account proposals by all relevant actors in advance of its first session (16-20 January 2012), during which its five independent experts will determine the Group's key thematic priorities and activities. Let them know what you think at wg-business@ohchr.org. Deadline for submissions is 8 december 2011.

The new expert body started its activities this week focusing on a set of internationally accepted UN guidelines, which provide for the first time a global standard for preventing and addressing the risk of adverse human rights impacts linked to business activity. The UN Framework and Guiding Principles on business and human rights outline what States and business enterprises should do to ensure that human rights are respected by business, and to ensure access to effective remedies for those whose rights have been adversely affected by business activity.

Besides promoting and disseminating these Guiding Principles, the Working Group must ensure that they are effectively implemented by both governments and business, and that they result in improved outcomes for individuals and groups around the world whose rights have been affected by business activity. How best to achieve this complex task? Share your views at wg-business@ohchr.org.

The Working Group on Discrimination against women in Law and Practice uses an online questionnaire to solicit input on particular topics:

Call for submission: good practices in the elimination of discrimination against women in economic and social life

As indicated in its annual report (see [A/HRC/20/28](#) paras. 32-35), the Working Group on Discrimination against Women in Law and Practice intends to address the issue of discrimination against women in law and in practice in economic and social life, in particular during time of economic crisis. The research undertaken on this topic will inform the annual report of the Working Group to the Human Rights Council in 2014 as well as the compendium of good practices.

To solicit information from a wide range of stakeholders, the Working Group has developed a questionnaire. The questionnaire is comprised of the following five sections:

- Section 1 Employment in Formal and Informal Labour Markets
- Section 2 Economic Occupations (i.e. non Employer Employee Relationships)
- Section 3 State Services and Benefits, Pensions and Poverty
- Section 4 Access to Capital Resources, Housing, Land and Family Property
- Section 5 Focus Economic Crisis

The Working Group on Discrimination against Women had invited stakeholders to contribute to its 2014 report by taking an [online survey](#) on discrimination against women in economic and social life. The web link to the survey has now closed. However, the questionnaire is still available in PDF format and replies to it are very much welcomed.

Should you wish to respond to the questionnaire, and depending on your expertise and experiences, you might want to respond to only some of the questions or some of the sections of the survey. Please see the survey's introduction for further details.

Kindly sent your responses at : wgdiscriminationwomen@ohchr.org

The Working Group thanks you very much for your time and efforts.

UN Working Group on Discrimination against Women in Law and Practice

Demographic information

1. Organization name (optional)

***2. My organization is based in**

***3. My organization works primarily at the**

National level
 Regional level
 International level

Contact Information for UN Special Procedures

The United Nations has one common set of instructions for contacting the various UN Special Procedure mandate-holders. All Special Procedures have the same contact information for *urgent appeals*, but each Special Procedure has its own contact information for *non-urgent* questions, allegation letters, and requests, as set forth in Appendix I.

It is important to specify the name of the Special Procedure and the main subject of the communication in the subject line of the e-mail or fax, or on the envelope of a postal communication.

UN Special Procedures have the following contact information:

Email:

- General inquiries and information: SPDInfo@ohchr.org
- Individual cases and complaints only: urgent-action@ohchr.org

Fax: +47 (0) 22 917 90 06

Post:

Insert name of UN Special Mechanism

Office of the United Nations Commissioner for Human Rights
Palais des Nations
8-14, avenue de la Paix
CH-1211 Geneva 10, Switzerland

All UN Special Procedures have the same mailing address and fax number; communications should specify the targeted mandate-holder.

Special Procedures Resources

Special Procedures of the Human Rights Council Website:

<http://www.ohchr.org/en/HRBodies/SP/Pages/Welcomepage.aspx>

Manual of the United Nations Human Rights Special Procedures:

<http://www2.ohchr.org/english/bodies/chr/special/manual.htm>

Directory of Special Procedures Mandate Holders:

http://www.ohchr.org/Documents/HRBodies/SP/SPVisualDirectory2013_en.pdf

Working with the United Nations Human Rights Programme - A Handbook for Civil Society (Chapter VI - Special Procedures):

<http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook6.pdf>

ii. The Commission on the Status of Women

The Commission on the Status of Women (CSW) was established in 1946, a few days after the inaugural meeting of the UN General Assembly. The CSW is a functional commission of the United Nations Economic and Social Council (ECOSOC). The CSW is “the principal global policy-making body dedicated exclusively to gender equality and advancement of women.”⁷⁰³ The original mandate of the CSW called for the Commission to submit recommendations and reports to ECOSOC regarding women’s rights in political, economic, civil, social, and educational arenas. In addition, this mandate required CSW to make recommendations on “urgent problems” in

⁷⁰³ United Nations Entity for Gender Equality and the Empowerment of Women, “Commission on the Status of Women,” <http://www.un.org/womenwatch/daw/csw/>.

women's rights.⁷⁰⁴ The current mandate calls on the CSW to monitor implementation measures for women's advancement and appraise progress in equality at national and global levels. The CSW also assesses the effect of UN programs to ensure that the principles of gender equality are consistently embedded in all development, peace, and human rights agendas.

The CSW meets annually at the UN headquarters in New York for ten working days in late February and early March. Typically each annual session focuses on one priority theme, one review theme, and one emerging issue. Priority themes are determined by ECOSOC resolution; most recently, a 2009 resolution detailed the priority themes for CSW annual sessions for 2010–14.⁷⁰⁵ Review themes are lifted directly from the priority themes of past annual sessions. The Bureau of the CSW,⁷⁰⁶ in consultation with member states, identifies the emerging issue. In deciding the emerging issues, the Bureau considers “trends and new approaches to issues affecting the situation of women, or equality between women and men.”⁷⁰⁷

The annual sessions consist largely of interactive panels and roundtables on the session themes.⁷⁰⁸ The principal output of the CSW sessions is the adoption of a set of “agreed conclusions” on the year's priority theme. The agreed conclusions contain concrete recommendations for governments and intergovernmental civil society actors, as well as an overview of progress and challenges.⁷⁰⁹ The CSW also submits an annual report to ECOSOC for adoption.⁷¹⁰ The annual report consists of a range of information, including the agreed conclusions, draft resolutions, and summaries of session events.

The CSW does not adopt formal conclusions to address review themes or emerging issues. Instead, the Chairperson of the Bureau prepares a summary of the interactive panel for both the review theme and the emerging issue.⁷¹¹ The summary is available on the annual session website.

NGOs that are accredited and in good standing with the ECOSOC may attend CSW annual sessions.⁷¹² In preparation for these sessions, the CSW sends invitations to NGOs in consultative status. There are three principal ways in which these NGOs can participate in CSW annual sessions: written statements, oral statements, and oral interventions during interactive panels.

Organizations with special consultative status may submit written statements on subjects about which they have “special competence.”⁷¹³ Written statements are accepted “on the thematic issues considered by CSW.”⁷¹⁴ The

⁷⁰⁴ Women Watch: Department for the Advancement of Women, “Short History of the Commission on the Status of Women,” <http://www.un.org/womenwatch/daw/CSW60YRS/CSWbriefhistory.pdf>.

⁷⁰⁵ UN Economic and Social Council Resolution 2009/15 (July 28, 2009). Also available online at <http://www.un.org/en/ecosoc/docs/2009/resolution%202009-15.pdf>.

⁷⁰⁶ United Nations Entity for Gender Equality and the Empowerment of Women, “Commission on the Status of Women,” *supra* note 703. (Bureau members are elected by CSW member states and serve for a term of two years. There are five members of the Bureau at any one time.)

⁷⁰⁷ United Nations Economic and Social Council Resolution 2006/9 (July 25, 2006), ¶¶ 8–10. Also available online at <http://www.un.org/en/ecosoc/docs/2006/resolution%202006-9.pdf>.

⁷⁰⁸ United Nations Entity for Gender Equality and the Empowerment of Women, “Commission on the Status of Women,” *supra* note 703.

⁷⁰⁹ *Ibid.*

⁷¹⁰ *Ibid.*

⁷¹¹ United Nations Economic and Social Council Resolution 2006/9, *supra* note 707, ¶¶ 7, 10.

⁷¹² All NGOs in consultative status are eligible to designate representatives to attend CSW annual sessions. There is limited space at annual sessions, so the CSW cannot guarantee that all NGO representatives wishing to attend annual sessions may do so. Because of space limitations, live Webcasts of meetings at the 2013 annual session are available on the UN website, at <http://www.un.org/webcast>; Commission on the Status of Women, “NGO Participation in the Commission for the Status of Women,” <http://www.unwomen.org/en/CSW/ngo-participation>.

⁷¹³ Written statements submitted by organizations with general consultative status are not limited to subjects on which they have a “special competence.” United Nations Economic and Social Council Resolution 1996/31, ¶ 36, <http://www.un.org/documents/ecosoc/res/1996/eres1996-31.htm>. (Resolution 1996/31, which sets forth guidelines for written and oral statements by all NGOs to the ECOSOC and its subsidiary commissions, does not define “special competence.”)

⁷¹⁴ Commission on the Status of Women, “Written and Oral Statements,” accessed Jan. 15, 2014, <http://www.unwomen.org/en/csw/ngo-participation/written-and-oral-statements>.

Secretary General circulates these written statements to members of the CSW.⁷¹⁵ Many of the written statements pertain to the priority theme. Others address other agenda items for the session.

CSW Requirements and Recommendations for Written Statements

- Written statements from NGOs in consultative status with the Economic and Social Council will be accepted via CSO-Net. Statements sent by email cannot be accepted.
- Written statements should be submitted in one of the official languages of the United Nations.
- If the statement is supported by another NGO(s) in consultative status with the Council, a note to that effect should be added at the end of the document. The names of the NGOs should be in alphabetical order.
- Incomprehensible and/or repetitive text will be deleted.
- Footnotes should be avoided.
- The start of a new paragraph should be indicated with a double line break; paragraphs of the statement should not be numbered.⁷¹⁶

NGOs without consultative status may not participate in official CSW sessions, but they have several opportunities to get involved in the discussion of the topics of the session. All NGOs, regardless of consultative status, may participate in parallel events held outside UN premises. Permanent Missions and UN entities offer side events on the United Nations premises. NGOs can host parallel events at an off-site location, and any NGO may participate in or apply to host a parallel event. These events share similar formats to the official meetings and allow for a wide variety of organizations to provide input for the issues addressed during the session.

B. UN Treaty-based Mechanisms

When a State ratifies or accedes to a human rights treaty, it becomes a “State Party” to that treaty and assumes the legal obligation to implement the rights set out in it.⁷¹⁷ Presently, there are ten core international human rights treaties that have entered into force.⁷¹⁸ Each of these core treaties has a treaty monitoring body which is a legal, technical body comprised of independent human rights experts, elected on a rotational basis by State Parties, tasked with monitoring State compliance with obligations under the human rights treaty. Every State Party to a human rights treaty has an obligation to report periodically to the monitoring body on their compliance with the terms of the treaty.⁷¹⁹ Some treaty bodies are also able to take complaints from individuals and others whose human rights have been violated. Usually, the State Party must “opt in” to these individual complaint procedures, either at the time of ratification or at a later date.

⁷¹⁵ UN Economic and Social Council, “Resolution 1996/31,” ¶ 36, accessed Jan. 15, 2014, <http://www.un.org/documents/ecosoc/res/1996/eres1996-31.htm>. Resolution 1996/31 states that “[written] statements shall be circulated by the Secretary-General to members of the commission or other subsidiary organs.”

⁷¹⁶ Commission on the Status of Women, “Written and Oral Statements,” *supra* note 714.

⁷¹⁷ Officer of the High Commissioner for Human Rights, “A Handbook for Civil Society,” at 31, accessed July 24, 2013, http://www.ohchr.org/EN/AboutUs/CivilSociety/Documents/Handbook_en.pdf.

⁷¹⁸ Officer of the High Commissioner for Human Rights, “Human Rights Treaty Bodies,” accessed July 24, 2013, <http://www2.ohchr.org/english/bodies/treaty/index.htm>.

⁷¹⁹ *Ibid.*

MAJOR HUMAN RIGHTS TREATY BODIES

- **Human Rights Committee (International Convention on Civil and Political Rights)***
- **Committee on Economic, Social and Cultural Rights***
- **Committee on the Elimination of Racial Discrimination***
- **Committee on the Elimination of Discrimination against Women***
- **Committee against Torture***
- **Committee on the Rights of the Child***
- **Committee on Migrant Workers**
- **Committee on the Rights of Persons with Disabilities***
- **Committee on Enforced Disappearance***
- **The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment**

* stars indicate those that can receive individual complaints

The UN treaty body system plays a pivotal role in promoting and protecting human rights. Most committees, in carrying out their activities, interact with civil society on a regular basis for information, contacts, and thematic expertise. Civil society can engage with treaty bodies in a range of ways⁷²⁰:

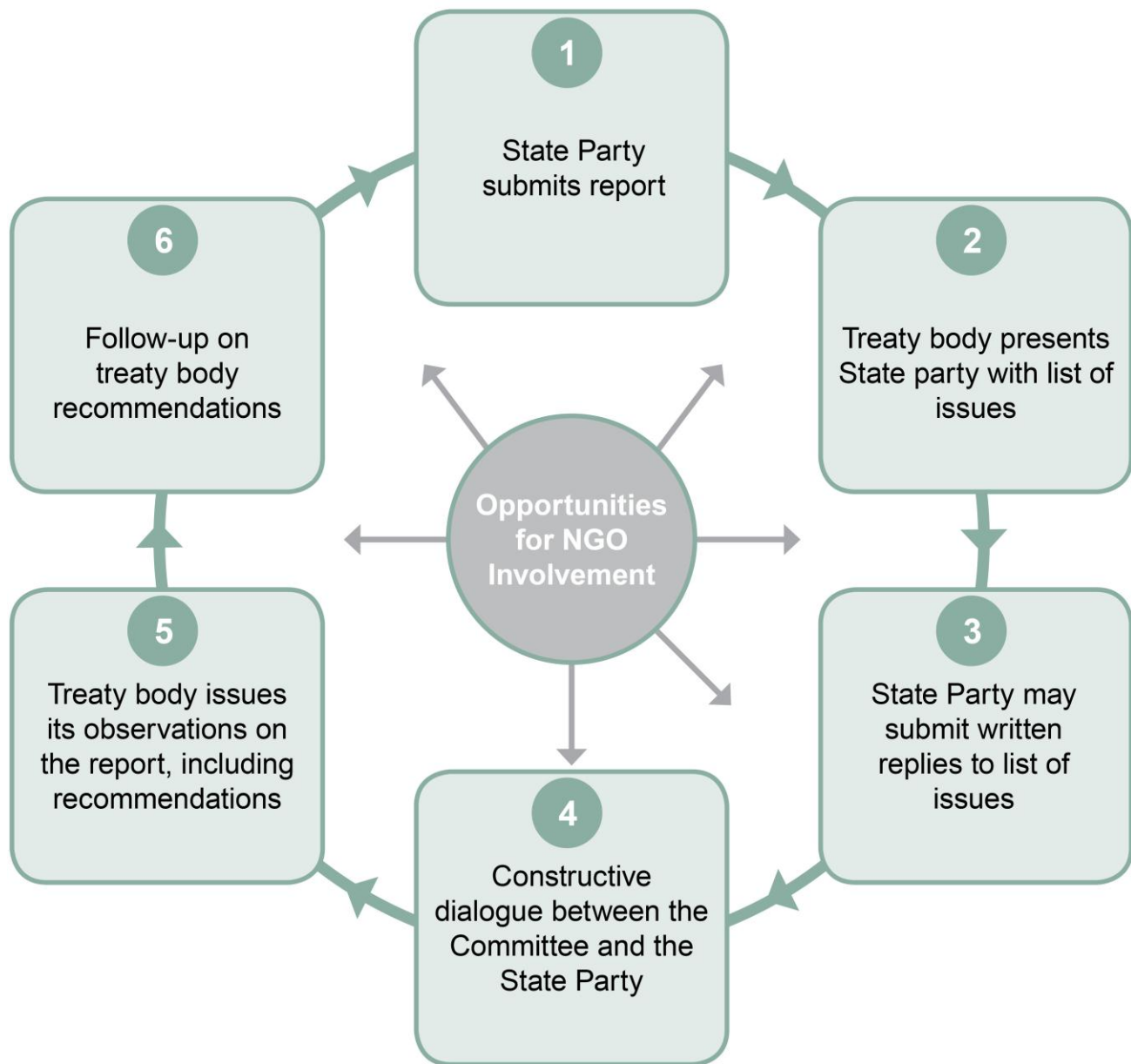
- Promote ratification of a treaty;
- Participate in the treaty body reporting process:
 - Monitor a State Party's compliance with its treaty obligations;
 - Submit shadow (or "parallel") reports as part of the State reporting process;
 - Participate in treaty body sessions;
 - Follow up on a treaty body's concluding observations for a State Party;
- Participate in General Discussion Days;
- Submit an individual complaint/communication; and
- Provide information to prompt a confidential inquiry into grave or systematic human rights violations.

i. An overview of the treaty body reporting cycle

The reporting process presents an important opportunity for a State Party to evaluate what has been achieved and what more needs to be done to advance human rights in a country. The reporting process consists of multiple stages, many of which provide opportunities for civil society engagement.

⁷²⁰ Officer of the High Commissioner for Human Rights, "A Handbook for Civil Society," *supra* note 717, at 33.

Treaty Monitoring Bodies Reporting Cycle



Adapted from Faculty of Law at the University of New South Wales, *Guide to Parallel Reporting: Diplomacy Training Program* (2011), 2, <http://www.ohchr.org/SiteCollectionImages/Bodies/ReportingCycle.gif>.

Step 1: State Party submits a report

The State report includes two parts: (1) a “Common Core” document providing general background information and other relevant information on human rights implementation, including facts, statistical information, and a description of the country’s legal framework for protecting and promoting human rights; and (2) a treaty-specific report with information related to the State Party’s obligations under the terms of the relevant treaty. Generally, a State Party must submit its first State report one or two years after the treaty enters into force, and then at regular

intervals every two to five years thereafter, depending on the treaty. If a State Party to a treaty has not met its reporting obligation and has not responded to a treaty body's requests for a report, the committee may undertake a review procedure to consider the human rights conditions "in the absence of a State report." Sometimes, soon after the committee schedules a review in the absence of a report, the State Party will rush to prepare and submit its overdue report.⁷²¹

Step 2: Treaty body presents State Party with List of Issues (LOI)

Before convening a session to review the State report, most treaty bodies prepare a "List of Issues and questions" (LOI; List of Issues) for the State Party's consideration. Most committees appoint one of its members to serve as a country rapporteur and lead the committee's work on preparing the LOI. Some treaty bodies also establish a "pre-sessional working group" to prepare the LOI. The LOI allows the committee to request from the State Party additional information that was not included in the report and to raise questions on specific issues. It may also indicate the type of questions and issues committee members are likely to raise during the review session. The meeting during which the treaty body decides on the LOI is usually called a meeting of the pre-sessional working group. Some treaty bodies allow civil society groups to participate directly in these meetings. Other treaty bodies do this work in closed sessions.

Step 3: State Party may submit written replies to List of Issues

Some treaty bodies require State Parties to respond to the List of Issues in writing before the session during which the committee considers the State report. The Committee on the Elimination of Racial Discrimination and the Committee Against Torture do not have a formal response requirement. When a State Party responds to the LOI, its response is added as a supplement to the State report. These responses can be particularly helpful to committee members when a long period of time has passed before the treaty body committee formally considers the State report during a committee session. In addition, the Committee Against Torture and the Human Rights Committee have an optional reporting procedure that allows State Parties to submit a written response to the LOI instead of submitting a periodic State report. This procedure encourages States to use the List of Issues as a guide for meeting reporting obligations by producing more focused submissions.

Step 4: Treaty body examines the State Party

States Parties are invited to the committee's session to present their reports, to respond to committee members' questions, and to provide the committee with additional information. The aim of the session is for the committee members and representatives of the State Party to engage in a constructive dialogue in order to assist the State in its efforts to implement the treaty as fully and effectively as possible. The review process typically proceeds as follows:

- The chairperson of the treaty body begins with a formal welcoming statement.
- The head of the State Party delegation makes an opening statement and introduces the State report.
- Committee members then make comments and ask questions.
- Members of the State Party delegation respond orally to questions and comments.

The examination is based on:

- The State report and Common Core document;
- The List of Issues, along with the State's written responses;
- Information from other UN bodies;

⁷²¹ International Service for Human Rights (ISHR), *Simple Guide to UN Treaty Bodies*, (2010), 19, <http://www.ishr.ch/sites/default/files/article/files/ISHR%20Simple%20Guide%20to%20the%20UN%20Treaty%20Bodies.pdf>.

- NGO shadow reports; and
- Any other relevant information available before the session.

If a State Party has not submitted a long-overdue report, the treaty body may evaluate the extent of implementation based on information provided by alternative sources including NGOs, other stakeholder groups, and UN agencies. The treaty body formulates a List of Issues for the State delegation to answer during the session. The committee may convene the review even if the State delegation is absent.

Step 5: Treaty body issues its Concluding Observations and Recommendations

A few weeks after a treaty body's session to consider a State report, the treaty body issues concluding observations and recommendations to the State Party. Concluding observations serve as guides for the State Party's implementation of its human rights obligations under the relevant treaty. They highlight positive aspects of the State Party's implementation of the treaty, identify problems with the State Party's observance of its treaty obligations, and offer recommendations for further action.

The treaty body's country rapporteur for the State Party often drafts the concluding observations and recommendations, and then the full treaty body debates and adopts them during a private session. All concluding observations are available online (<http://tb.ohchr.org/default.aspx>) to facilitate their wide dissemination. If a State Party fails to submit a report, the treaty body adopts confidential provisional concluding observations.

Step 6: Follow-up on treaty body recommendations

After adopting concluding observations and recommendations, treaty bodies use various procedures to monitor the State Party's progress in implementing the recommendations. All treaty bodies request that the State Party's next report address the concluding observations and the State Party's implementation of the treaty body's recommendations.

Some treaty bodies (Human Rights Committee, Committee on the Elimination of Racial Discrimination, Committee against Torture, and Committee on the Elimination of Discrimination Against Women) identify priority concluding observations and give the State Party a deadline of one to two years to report back about implementation. Similarly, the Committee on Economic, Social and Cultural Rights may request that the State Party provide additional information before submitting its next State report.

To advance their goals, many treaty bodies appoint a committee member to serve as a follow-up rapporteur or coordinator to assume leadership over monitoring a State Party's efforts to implement the recommendations. Treaty bodies have also developed different tools and methods to promote the implementation of their recommendations:

- The Committee on the Elimination of Racial Discrimination offers online guidelines describing how State Parties can implement concluding observations.
- The Committee against Torture undertakes a substantive analysis of the follow-up information provided by States and civil society and makes written requests for further clarification as needed.
- The Committee on Economic, Social and Cultural Rights reviews follow-up information in a pre-session working group. Based on that information, the working group can recommend that the treaty body adopt additional concluding observations, request more information, or address specific issues at a later session. If a State Party does not submit information, the committee can request permission to conduct a technical assistance mission to the State Party. If the State Party refuses, the committee may make appropriate recommendations to the Economic and Social Council.

- The Human Rights Committee undertakes a qualitative assessment of follow-up information provided by State Parties and categorizes the information as satisfactory, incomplete, recommendations not implemented, receipt acknowledged, or no response. The committee may also request a meeting with a government representative if the State Party does not submit any follow up information.

ii. Opportunities for civil society to participate in the treaty body reporting cycle

Reporting stage	What to do
Before the State Party Submits Its Report	Participate in consultations with the State Party as it prepares its report.
	Raise public awareness about the treaty and the reporting process.
	Lobby the State Party to meet reporting deadlines.
Before the Treaty Body Meets to Adopt Its List of Issues	Prepare a List of Issues report identifying key human rights issues that warrant additional attention during the reporting process.
	Write to the Treaty Body to express interest in participating in the Pre-Session Working Group (if permitted).
During the Meeting of the Pre-Session Working Group	Make an oral intervention during the Pre-Session Working Group (if permitted).
Before the Treaty Body's Examination of the State Party	Research, write, and submit a shadow report on a human rights issue in the State Party.
During the Treaty Body's Examination of the State Party	Attend the session in person (if the group has ECOSOC status) or via webcast.
	Make an oral intervention during the examination.
	Participate in informal briefings with committee members.
	Circulate "one pagers" in person or via email highlighting key concerns identified in the shadow report.
After the Treaty Body Publishes Its Concluding Observations	Conduct awareness-raising activities.
	Lobby for legislation and other reforms to implement the treaty body's recommendations, and engage in consultation with the government to participate in the implementation of recommendations.
	Monitor and document the implementation of the treaty body's recommendations.
	Submit interim shadow report assessing implementation of priority recommendations.
	Inform treaty body immediately if the State Party engages in reprisals for participation in the review process.

Before the State Party submits its report

National Consultations. Some State Parties, before drafting a State report, convene national consultations and invite NGOs to participate. An NGO can make recommendations to the State Party based on findings and information from its own work.

Public Awareness-raising. Groups can also educate the public by raising awareness about the rights recognized in the treaty, the reporting process, and the State Party's reporting deadlines.

Lobbying. Civil society can monitor a State's reporting obligations and lobby the government to meet reporting deadlines. Civil Society can also lobby experts who serve on the treaty body, bringing specific human rights issues to their attention for consideration during the review.

Before the treaty body meets to adopt its List of Issues

List of Issues (LOI) Reporting. Civil society organizations can submit information to treaty bodies after the State Party submits its report and before the treaty body adopts its List of Issues (LOI). In contrast to shadow reports submitted after the treaty body adopts the LOI, these LOI reports are typically shorter and provide recommendations about particular issues that warrant additional attention. The committee can incorporate the information from the NGO report in the LOI. LOI reports are usually due approximately two months before the session when the treaty body sets the LOI.

Optional LOI Prior to Reporting. Some treaty bodies have offered States the option of participating in a new procedure. Before the State Party submits its report, the treaty body compiles a List of Issues, and the State Party submits a written response. For State Parties that elect to use this new procedure, civil society organizations engage in LOI reporting before the State Party submits its report. For State Parties that elect to use this "LOI Prior to Reporting" procedure, civil society organizations do not have the opportunity to submit a second LOI report after the State Party submits its periodic report. Instead, these groups proceed directly to shadow reporting.

During the meeting of the pre-session working group

Pre-sessional working groups. Most treaty bodies do not allow government delegations or NGOs to attend working group meetings. Civil society's written contributions to these working groups may be included in the LOI sent to State Parties.

The Committee on the Rights of the Child uses a different procedure. In the CRC's pre-sessional working group meeting, NGOs can provide additional information and make oral submissions. NGOs interested in participating in the CRC pre-session working group must submit a written report to the Committee at least two months in advance. The Committee then selects and invites NGOs to attend based on the written submissions. NGOs from the country under review may make introductory remarks of up to 15 minutes; their counterparts from other countries are limited to five minutes. The treaty body allows time for questions and answers.

Before the review session

Shadow Reporting. As part of the reporting process, civil society organizations are invited to supplement or present alternative information, in the form of a report that parallels or "shadows" the State report. These "shadow" reports provide both reliable and independent information on human rights violations or gaps between law and practice which may have been overlooked in government reports.

A shadow report should analyze a particular problem rather than merely describe it. Some NGOs produce reports that shadow the entire State report, but it is also possible for NGOs that work on particular human rights issues to produce reports that merely shadow one or a few articles of a convention or human rights issues. All shadow reports to the United Nations should be based on factual information, written in clear, simple language, and should comply with the formats, page limitations, and filing schedules that vary among the treaty monitoring bodies. Reports should include specific information such as case studies, anecdotes, or statistical information, and reports should cite the sources of this information.

Although civil society organizations may submit written reports to a treaty body through the secretariat at any time, NGOs are encouraged to make their submissions after the submission of the State Party's report and before the committee session on that report. Some treaty bodies have established page limits and deadlines for submission of NGO reports to ensure committee members can more thoroughly examine the information. Groups that have already submitted a shadow report can send updated information to direct committee members' attention to new developments. For more details on the steps for writing a shadow report, see "10 steps to Writing a Shadow Report," in Appendix M. For more information on reporting guidelines and deadlines, see the submission requirements under the section on treaty body specific information.

During the treaty body's examination of the State Party

Attending sessions. Sessions on State reports are considered public hearings that NGOs are permitted to attend as observers. In order to attend a session of a treaty body, an NGO must have ECOSOC consultative status (see Chapter 11), and must obtain advance accreditation from the secretariat of the relevant committee. NGOs cannot participate in the formal dialogue between the treaty body and the State under review, but by attending the treaty body sessions, NGOs can share relevant information with committee members. NGOs interact with committee members during formal or informal meetings, typically during the week of or the week prior to the formal dialogue.

Making oral interventions. Most treaty bodies designate time during sessions to hear oral submissions from civil society groups speaking about the State under review. These briefings allow NGOs to provide committee members with the most current country-specific information before they formally examine a State Party's report. Treaty bodies usually schedule time to hear these oral statements, or "interventions," at the beginning of the session, a day or two before the State Party's delegation appears before the committee. Government representatives are typically not allowed to attend these meetings.

Informal briefings. NGOs can also individually or jointly organize informal briefings with committee members on issues and countries that will be discussed during an upcoming treaty body session. NGOs can also plan informal meetings with committee members during or prior to the sessions. They may also have the opportunity to interact with committee members through side events, other NGO meetings, or in the corridors of the area where the treaty body sessions are held.

One pagers. Many civil society groups will prepare a one page handout, often called a "one pager," highlighting key issues and facts relevant to the upcoming review, emphasizing key recommendations, and identifying recent developments since the group submitted its shadow report. NGOs typically use these one pagers as part of their advocacy with treaty body members, who may not have time to review an entire shadow report. Groups that are unable to attend a session in-person can email these one pagers to committee members in advance of the session.

After the treaty body publishes its concluding observations

Raising Awareness. Civil society groups can draw attention to their issues and raise awareness of treaty body recommendations by: holding press conferences, issuing press releases, and bringing media attention to their issues; distributing the concluding observations to civil society organizations, courts, and local governments; and publishing short articles in newspapers or other public forums. NGOs can also apply the concluding observations and recommendations to their own work, incorporating them into organizational activities at the local, regional, or national levels.

Lobbying. NGOs can lobby governments to implement the concluding observations by organizing meetings or conferences with the State Party's government officials who will report back to the treaty body or with other officials responsible for implementing the treaty body's recommendations.

Monitoring and documentation. NGOs can monitor the government's implementation of the concluding observations and recommendations, and can report this information back to the treaty bodies formally or informally. An NGO's follow-up report is critical to a treaty body's assessment of the State Party's progress.

Interim reporting. The treaty bodies that identify priority concluding observations and give the State Party a deadline of one to two years to report back about implementation also welcome shadow reports from NGOs at the time the State Party reports back.

Report reprisals. Sometimes governments respond negatively to NGOs or individual human rights defenders who participate in the treaty body review process. Each treaty body requests that any victims of such reprisals promptly report them to the committee for a response.

Practitioner's tip: For more details on the follow up procedures for each treaty body, please consult:

"Follow-Up to Concluding Observations: Overview of follow-up procedures."
<http://www2.ohchr.org/english/bodies/icm-mc/docs/10th/HRI.ICM.2009.6.pdf>

Indigenous Colombian Women Submit Shadow Report to CEDAW Committee

In 2013, several organizations representing indigenous people, including the National Indigenous Organization of Colombia and the Women, Family and Children's process of the Organization of Indigenous Peoples of the Colombian Amazon, brought together a group of Colombian indigenous women to prepare a shadow report for the fall 2013 session of Committee on the Elimination of Discrimination against Women. The report, *A Look at the Human Rights of Indigenous Women in Colombia*, describes the discrimination indigenous Colombian women face and offers specific recommendations that the committee could make to the Colombian Government.⁷²²

After the review, the CEDAW Committee noted with appreciation that the Government of Colombia had passed several legal reforms supporting women's rights.⁷²³ The committee expressed concern, however, about the poor implementation of these laws. The committee also noted with concern the issue of stereotypes that the indigenous Colombian



⁷²² Forest Peoples Programme, *Colombian Indigenous Women Inform the CEDAW of the Multiple Forms of Discrimination they Face*, (Bogota, Colombia: CEDAW, Aug. 2013). Available online at <http://www.forestpeoples.org/topics/un-human-rights-system/news/2013/10/colombian-indigenous-women-inform-committee-elimination-d>.

⁷²³ Forest Peoples Programme, *A Look at the Human Rights of Indigenous Women in Colombia*, (Bogota, Colombia, Aug. 2013), <http://www.forestpeoples.org/sites/fpp/files/news/2013/10/REPORT%20CEDAW%20INDIGENOUS%20WOMEN%20IN%20COLOMBIA.pdf>

women had raised: “the State party has not taken sufficient sustained and systematic action to eliminate stereotypes, in particular those against indigenous and Afro-Colombian women.”⁷²⁴ In its recommendations, the Committee suggested that Colombia develop a comprehensive strategy to overcome gender-based stereotypes through the cooperation of civil society organizations, “with a view to enhancing a positive . . . portrayal of Afro Colombian and indigenous women.”⁷²⁵

Another issue raised by the group of indigenous women was that of a lack of an adequate response by the two justice systems, indigenous and formal. The committee noted that there was a poor response by both systems as well as a “persistence of barriers to their [the women’s] effective access to formal justice.”⁷²⁶ The committee recommended that Colombia establish measures to give indigenous women access to justice in both the indigenous and formal legal mechanisms.⁷²⁷

Resources for Advocacy with UN Treaty Bodies

A Guide to International Human Rights Mechanisms

http://www.theadvocatesforhumanrights.org/international_human_rights_mechanisms_2.html

A basic tool for international human rights advocacy with the UN and regional treaty bodies.

Simple Guide to UN Treaty Bodies

<http://www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies>

Provide human rights defenders and their organizations with a broad overview of the UN human rights treaty body system and its functions to support their effective engagement with the treaty bodies.

Working with the United Nations Human Rights Programme - A Handbook for Civil Society (Chapter IV - Human Rights Treaty Bodies)

<http://www.ohchr.org/en/AboutUs/CivilSociety/Pages/Handbook.aspx>

This chapter provides specific guidance on the functions of treaty bodies and how civil society can engage with them and support their work.

OHCHR Country Pages

<http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx>

Provides specific details and quick links on each country’s status of ratifications, reporting status, concluding observations from treaty monitoring bodies, special procedures reports, and more.

OHCHR Treaty Bodies Database

<http://tb.ohchr.org/default.aspx>

This database allows users to search for any official UN treaty body documents.

OHCHR Treaty Bodies Homepage

<http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

Provides a general overview of the treaty-bodies and their role within the human rights system.

⁷²⁴ OHCHR, “CEDAW: Concluding Observations on the Combined Seventh and Eighth Periodic Reports of Colombia,” accessed Jan. 22, 2014, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N13/535/21/PDF/N1353521.pdf?OpenElement>, ¶ 13.

⁷²⁵ *Ibid.*, ¶ 14.

⁷²⁶ *Ibid.*, ¶ 33.

⁷²⁷ *Ibid.*, ¶ 34.

iii. General Discussion Days

Some treaty bodies offer civil society groups additional opportunities for engagement and advocacy. For example, in alternating years the Committee on the Rights of the Child holds a “Day of General Discussion” at the Palais des Nations in Geneva, Switzerland. The Committee selects the topic for discussion, publishes a background paper to guide the discussion, invites civil society organizations to make written submissions on particular topics and to attend the discussion in person, and then issues recommendations based on the discussion. In 2012, for example, the discussion focused on the rights of all children in the context of international migration. In 2014, the topic will be “Media, Social Networks and the Rights of the Child.” The 2016 topic will be “Access to Justice and Effective Remedies to Child Rights Violations.”⁷²⁸ The Committee on Economic, Social and Cultural Rights,⁷²⁹ the Committee on the Elimination of Racial Discrimination,⁷³⁰ the Committee on the Elimination of Discrimination Against Women,⁷³¹ and the Committee on Migrant Workers⁷³² hold similar days of discussion on relevant topics. The Human Rights Committee holds general discussions to seek civil society input when it is drafting general comments.⁷³³

iv. Individual Communications / Complaints

Seven of the United Nations’ human rights treaty bodies currently may, in certain circumstances, receive and consider complaints or communications from individuals. Under most human rights treaties, a State Party must affirmatively “opt in” to be subject to the treaty body’s communications procedure. An individual whose rights under a treaty have been violated by a State Party to that treaty may bring a communication before the relevant committee, provided that the State Party at issue has recognized the competence of the committee to receive such complaints and that the individual has exhausted any available domestic remedies.

The complaints procedures associated with each treaty are not identical, but the main steps of the process are similar. For a more detailed description, see Appendix N, OHCHR’s Fact Sheet on CEDAW communications.

Civil society organizations can play an important role in the individual communications process. First, they may assist individuals in preparing and submitting their complaints. Second, NGOs sometimes submit amicus briefs in support of an individual communication. Finally, after a committee issues its decision in an individual communication, the individual and the State Party have an opportunity to respond in writing. In some cases, NGOs submit “shadow letters”—similar to shadow reports—providing additional information to supplement the State Party’s written response, or to demonstrate inadequacies in how the State Party has responded to the committee’s decision. These documents may prompt the committee to issue new outcome documents about the individual communication and the State Party’s implementation of the committee’s recommendations.

⁷²⁸ Committee on the Rights of the Child, *Next Days of General Discussion*, accessed Jan. 17, 2014, <http://www.ohchr.org/EN/HRBodies/CRC/Pages/DiscussionDays.aspx>.

⁷²⁹ Committee on Economic, Social and Cultural Rights, *General Discussion Days*, accessed Nov. 7, 2013, <http://www.ohchr.org/EN/HRBodies/CESCR/Pages/DiscussionDays.aspx>.

⁷³⁰ Committee on the Elimination of Racial Discrimination, *Thematic Discussions*, accessed Nov. 7, 2013, <http://www.ohchr.org/EN/HRBodies/CERD/Pages/Discussions.aspx>.

⁷³¹ Committee on the Elimination of Discrimination Against Women, *General Discussion on Rural Women*, Oct. 7, 2013, <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/RuralWomen.aspx>.

⁷³² Committee on Migrant Workers, *General Discussion Days*, accessed Nov. 7, 2013, <http://www.ohchr.org/EN/HRBodies/CMW/Pages/DiscussionDays.aspx>.

⁷³³ Human Rights Committee, *General Discussion on the preparation for a General Comment on Article 9 (Liberty and Security of Person) of the International Covenant on Civil and Political Rights, Palais des Nations, Room XII - 25 October 2012*, <http://www.ohchr.org/EN/HRBodies/CCPR/Pages/GConArticle9.aspx>.

Treaty Bodies with Complaint Mechanisms

The Human Rights Committee may consider individual communications alleging violations of the rights set forth in the International Covenant on Civil and Political Rights by State Parties to the First Optional Protocol to the International Covenant on Civil and Political Rights.

The Committee on Elimination of Discrimination against Women may consider individual communications alleging violations of the Convention on the Elimination of All Forms of Discrimination against Women by State Parties to the Optional Protocol to the Convention on the Elimination of Discrimination against Women.

The Committee against Torture may consider individual complaints alleging violations of the rights set out in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment by State Parties who have made the necessary declaration under article 22 of the Convention.

The Committee on the Elimination of Racial Discrimination may consider individual petitions alleging violations of the International Convention on the Elimination of All Forms of Racial Discrimination by State Parties who have made the necessary declaration under article 14 of the Convention.

The Committee on the Rights of Persons with Disabilities may consider individual communications alleging violations of the Convention on the Rights of Persons with Disabilities by State Parties to the Optional Protocol to the Convention.

The Committee on Enforced Disappearances may consider individual communications alleging violations of the International Convention for the Protection of All Persons from Enforced Disappearance by State Parties who have made the necessary declaration under article 31 of the Convention.

The Committee on Economic, Social and Cultural Rights may consider individual communications alleging violations of the International Covenant on Economic, Social and Cultural Rights by State Parties to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

The Committee on the Rights of the Child may consider individual communications alleging violations of the Convention on the Rights of the Child by State Parties to the Optional Protocol on Individual Communications. This mechanism enters into force in April 2014.

The Committee on Migrant Workers also has an individual complaint mechanism, but it has not yet entered into force.

CEDAW Individual Communication Procedure as a Tool to Advocate for Domestic Violence Reforms in Hungary

In 2003, A.T., a victim of domestic violence, filed an individual communication with the CEDAW Committee against her country, Hungary, for not protecting her from severe violence and abuse at the hands of her common law husband. A.T. alleged that her husband was violent and physically abusive, threatened sexual abuse, and refused to pay child support. She provided supporting medical certificates corroborating her allegations. A.T.'s communication was the first case the Committee heard on domestic violence. The Committee found that Hungary's inaction violated A.T.'s human rights under CEDAW.

A.T.'s husband had successfully sued in a Hungarian court for the right to access the family apartment, which they jointly owned, arguing that no abuse was substantiated and that the court could not restrict his property

rights. Protection orders were not available, so A.T. sought relief from civil courts, criminal courts, and child protection authorities, all to no avail. Having exhausted in-country options for relief, she sought recourse by filing an individual communication with the CEDAW Committee.

After the CEDAW Committee found in favor of A.T. and issued its recommendations, Hungary submitted its response in writing. Hungary maintained that the Governmental Office of Equal Opportunities had made contact with A.T., provided her with legal counsel, and arranged for appropriate housing for her family. Further, Hungary noted that its legislature was working on several measures to protect victims of domestic violence.

In 2004, A.T. and two Hungarian NGOs submitted a “shadow letter” to the CEDAW Committee responding to Hungary’s position. The letter contained two parts: first, A.T.’s personal reflections on Hungary’s response; and second, the NGOs’ review of the measures the Hungarian Government had taken. A.T. explained that Hungary’s response was misleading at best, that she had been offered only temporary housing, that she had not been provided with counsel, and that the government had never discussed the possibility that she could receive compensation for the violation of her rights. The NGOs explained that Hungary’s response did not reflect the substance or the spirit of the CEDAW Convention. Hungary’s response, the NGOs pointed out, had not even mentioned “domestic violence,” had referenced general laws that did not address domestic violence, and had discussed remedies that are not regularly available to victims of domestic violence.⁷³⁴

The Hungarian Government subsequently confirmed much of what the NGOs said in the shadow letter, admitting that most of the domestic violence legislation had not moved forward or had not been implemented and that the legal system was not prepared to provide appropriate support to victims of domestic violence. The CEDAW Committee in 2005 reiterated its earlier recommendations, finding that Hungary should “Respect, protect, promote and fulfill women’s human rights, including their right to be free from all forms of domestic violence, including intimidation and threats of violence, . . . provide victims of domestic violence with safe and prompt access to justice, including free legal aid where necessary, in order to ensure them available, effective and sufficient remedies and rehabilitation . . . [and] [p]rovide offenders with rehabilitation programmes and programmes on non-violent conflict resolution methods.”⁷³⁵

v. Request for Inquiry

The Committee Against Torture and the CEDAW Committee allow individuals to request an inquiry into particular treaty violations. Countries that have ratified the Convention against Torture and Cruel, Inhuman and Degrading Treatment or Punishment are subject to its inquiry procedure unless they opt out under Article 28 of the Convention. Countries that have ratified the optional protocol to the Convention on the Elimination of all forms of Discrimination Against Women are subject to the CEDAW inquiry procedure unless they opt out under Article 10 of the optional protocol.

Article 20 of the Convention Against Torture allows confidential inquiries if the Committee Against Torture “receives reliable information which appears to it to contain well-founded indications that torture is being systematically practised in the territory of a State Party.”⁷³⁶ Article 8 of the optional protocol to CEDAW allows for

⁷³⁴ Shadow letter to CEDAW, at 7, on file with The Advocates for Human Rights.

⁷³⁵ *Views of the Committee on the Elimination of Discrimination Against Women Under Article 7, paragraph 3, of the Optional Protocol to the Convention Committee on the Elimination of Discrimination Against Women*, CEDAW/C/36/D/2/2003, Jan. 26, 2005, http://www2.ohchr.org/english/law/docs/Case2_2003.pdf.

⁷³⁶ UN General Assembly, Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, 1984, Art. 20(1), (5).

confidential inquiries into “grave or systematic violations by a State Party of rights set forth in the [CEDAW] Convention.”⁷³⁷

To initiate an inquiry under the CEDAW Convention, an individual or organization must submit “reliable information indicating grave or systematic violations.” “If the Committee is satisfied that the information received is reliable and indicates grave or systematic violations of rights,”⁷³⁸ the Committee invites the State Party “to cooperate in the examination” of that information and “to submit observations with regard to the information concerned.” The Committee may also “decide to obtain additional information from . . . [n]on-governmental organizations . . . and [i]ndividuals.”⁷³⁹ Next, the Committee “may designate” one of its members “to conduct an inquiry and to report urgently to the Committee.” The member conducting the inquiry may visit the territory of the State Party only if the State Party consents.⁷⁴⁰ The Committee then examines the findings of the inquiry and transmits them to the State Party, along with comments and recommendations.⁷⁴¹ The State Party then has six months to submit its own observations to the Committee.⁷⁴² At all stages of the inquiry process, the Committee seeks the cooperation of the State Party.⁷⁴³ The procedures are similar for an Article 20 inquiry under the Convention Against Torture.⁷⁴⁴ Rules 76-91 of the Rules of Procedure for the Optional Protocol to CEDAW apply to Article 8 inquiries.⁷⁴⁵

OPCEDAW Article 8 Inquiry Requirements

An Article 8 request for inquiry to the CEDAW Committee should contain:

- (1) “reliable information”
- (2) from reliable sources, and
- (3) such information must indicate “grave or systematic violations of rights.”⁷⁴⁶

For further information, consult A Primer on the Inquiry Procedure Under the OP CEDAW, available at http://cedaw-seasia.org/docs/Primer_on_Inquiry_Procedure_EnGenderRights.pdf, and How To Complain About Human Rights Treaty Violations: The Investigative Mechanisms, Bayefsky.com, available at http://www.bayefsky.com/complain/46_investigations.php.

Equality Now and Casa Amiga Initiate Article 8 Inquiry Under CEDAW

In October 2002, two civil society organizations, Equality Now and Casa Amiga, submitted a letter to the CEDAW Committee requesting an inquiry under Article 8 into the abduction, rape, and murder of women in

⁷³⁷ Convention on the Elimination of Discrimination Against Women, Optional Protocol, 1999, Art. 8(1), (5).

⁷³⁸ Convention on the Elimination of All Forms of Discrimination Against Women, Rules of Procedure for the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, Rule 83(1). Available online at <http://www.un.org/womenwatch/daw/cedaw/rules/part3/part3E.html>.

⁷³⁹ *Ibid.* Rule 83(3).

⁷⁴⁰ Convention on the Elimination of All Forms of Discrimination Against Women, Optional Protocol, 1999, *supra* note 737, Art. 8(2).

⁷⁴¹ *Ibid.* Art. 8(3).

⁷⁴² *Ibid.* Art. 8(4).

⁷⁴³ *Ibid.* Art. 8(5).

⁷⁴⁴ UN General Assembly, Convention Against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, *supra* note 736, Art. 20.

⁷⁴⁵ Convention on the Elimination of All Forms of Discrimination Against Women, Rules of Procedure for the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, *supra* note 738.

⁷⁴⁶ Rules of Procedure for the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, Rule 82, available at <http://www.un.org/womenwatch/daw/cedaw/rules/part3/part3E.html>.

Ciudad Juarez, Mexico. Equality Now works to advance the human rights of women and girls around the world. Founded in 1992, the civil society organization is based in the United States and collaborates with other grassroots organizations to document violence and discrimination and to mobilize international action.⁷⁴⁷ Casa Amiga Crisis Center is a Mexican NGO working to create a culture free of violence and striving to protect the rights and physical and emotional well-being of women and children. Casa Amiga was founded in 1998 as part of the growing activism against the femicides in Ciudad Juarez.⁷⁴⁸ On June 3, 2003, Casa Amiga and Equality Now, along with the Mexican Committee for the Defence and Promotion of Human Rights, provided the Committee with additional information on new murders, ongoing impunity, and growing frustration about violence against women in Ciudad Juarez.⁷⁴⁹ Three hundred other civil society organizations joined their campaign, which highlighted Mexican authorities' failure to seriously respond to these abuses and their complicity in protecting perpetrators and obstructing the justice process.⁷⁵⁰



Crosses erected where the bodies of eight murdered women were found outside the city of Juarez in 1996

In July 2003, the Committee examined the information submitted by the Mexican Government as well as by

⁷⁴⁷ Equality Now, "About Us," accessed Nov. 14, 2013, <http://www.equalitynow.org/about-us>.

⁷⁴⁸ Casa Amiga, "Quiénes Somos," accessed Nov. 12, 2013, <http://www.casa-amiga.org.mx/index.php/Contenido/quienes-somos.html>.

⁷⁴⁹ Committee on the Elimination of Discrimination against Women, *Report on Mexico produced by the Committee on the Elimination of Discrimination Against Women Under Article 8 of the Optional Protocol to the Convention, and Reply from the Government of Mexico*, Jan. 27, 2005, <http://www.un.org/womenwatch/daw/cedaw/cedaw32/CEDAW-C-2005-OP.8-MEXICO-E.pdf>.

⁷⁵⁰ Ibid.

Casa Amiga, Equality Now, and the Mexican Committee for the Defence and Promotion of Human Rights. The Mexican government accepted the Committee's request for a country visit, and two human rights experts visited Mexico in October 2003.⁷⁵¹ The experts met with representatives of many civil society organizations and state agencies.

In January 2005, the Committee published its report, which concluded that the Mexican Government had committed grave violations of human rights.⁷⁵² The report detailed the inadequacies of the authorities' response to the violence against women. These inadequacies included errors and irregularities such as obstruction of investigations, falsification and disappearance of evidence, delays in searches, irregularities in procedure, harassment of relatives and other activists, torture of witnesses and suspects by State officials, as well as a tendency of authorities to downplay the severity of these violations. The report concluded that the Mexican State had violated CEDAW Articles 1, 2, 3, 5, 6, and 15.⁷⁵³

The Committee recommended that Mexico take all appropriate measures to eliminate discrimination against women. To this end, the Committee recommended capacity-building measures such as strengthening coordination between authorities at the federal, state, and municipal level as well as strengthening cooperation between government authorities and civil society organizations. The Committee also recommended that all aspects of investigations incorporate a gender perspective. The Committee further recommended that the Government of Mexico to punish negligence and complicity on the part of public authorities, establish early warning and emergency mechanisms, provide gender training to all public officials on violence against women, establish a national register of murdered and abducted women, and organize awareness-raising campaigns with civil society.

In 2007, the Mexican Government acted upon the Committee's recommendations and passed the Mexican General Law on Women's Access to a Life Free from Violence (GLAWLFV). The law requires federal and local authorities to prevent, punish, and eradicate violence against women, giving specific responsibilities to municipal, state, and federal authorities such as victim assistance and access to government-run shelters. Notably, the law defines three types of protection orders: emergency, preventative and



A 2007 protest by victims' families to call for the perpetrators to be held accountable

⁷⁵¹ Ibid.

⁷⁵² Ibid.

⁷⁵³ Ibid.

civil. Emergency and preventative protection orders must be issued within 24 hours. Emergency orders allow authorities to intervene by removing aggressors from the home and prohibiting them from being present in the victim's workplace or home. Preventative orders allow authorities to seize the aggressor's firearms and to offer aggressor treatment services. The law has received mixed reviews. Some civil society organizations regard it as a "breakthrough," as federal governments finally see violence against women as a priority issue. Other civil society actors recognize implementation challenges, including the need for more funding and the lack of sufficient infrastructure, such as shelters.⁷⁵⁴

In August 2008, Amnesty International released a report detailing how women in Mexico continue to be let down by the failures in the country's justice system. The report noted that many Mexican counties have approved similar legislation, which is a positive first step, the law is not yet properly funded and enforced, and the lives of many women are still at risk.⁷⁵⁵ In January 2009, Amnesty released a second report concluding that, two years on, the "law had no impact in the majority of Mexico's 32 states."⁷⁵⁶ The report cited the Mexican Government's lack of effectiveness in preventing and punishing violence against women. For instance, as of early 2009, only 5 out of 30 counties in one state had established an implementation mechanism, only 20 had agency coordination mechanisms, and state authorities had built only two new shelters. (Amnesty observed in total only 60 shelters in Mexico, including those run by civil society organizations.)

By the end of 2009, all 32 states had adopted GLAWLFV.⁷⁵⁷ In July 2012, Observatorio Ciudadano Nacional del Femicidio (OCNF - National Citizens' Observatory on Femicide) presented a report to the CEDAW Committee. OCNF is a coalition of 43 Mexican human rights organizations seeking to strengthen access to justice to women victims of gender-based violence, femicide, and discrimination. It engages in research and advocacy, including monitoring, gathering, and analyzing evidence on the inadequacies of the justice system. This report concluded that despite the new legal framework of the GLAWLFV, more than five years after its adoption, the Mexican Government had failed to implement and enforce the law and had not significantly improved or guaranteed the protection of women against violence.⁷⁵⁸

The Campaign to Restore National Housing Rights: Using the United Nations' Special Procedures to Advocate for Change

The UN Special Rapporteur on the Right to Adequate Housing, Raquel Rolnik, made an official visit to the United States between October 23 and November 6, 2009. The Special Rapporteur is appointed by the UN Human Rights Council under Special Procedures to examine and report back on the housing situation of a given country. The first official mission to the United States by a UN Special Rapporteur on Housing, this visit focused primarily on gathering information about concerns around public housing and Section 8 (social housing),

⁷⁵⁴ Immigration and Refugee Board of Canada, *Mexico: The New federal Law to Combat Violence Against Women (2007)*, June 7, 2007, <http://www.refworld.org/docid/469cd68d8.html>.

⁷⁵⁵ Amnesty International, *Women in Mexico Let Down by Failures in Justice System*, <http://www.amnesty.org/en/news-and-updates/report/women-mexico-let-down-failures-justice-system-20080801>.

⁷⁵⁶ *Ibid.*; Press Release, Amnesty International, Mexico: Two years on: The Law to Protect Women has had no Impact at State Level (Jan. 29, 2009). Also available online at <https://www.amnesty.org/en/for-media/press-releases/mexico-two-years-law-protect-women-has-had-no-impact-state-level-2009012>.

⁷⁵⁷ CEDAW2014.org, *Frequently Asked Questions: What Success Has CEDAW Had in Other Countries?*, accessed Nov. 18, 2013, <http://www.cedaw2011.org/index.php/about-cedaw/faq>.

⁷⁵⁸ Católicas por el Derecho a Decidir (CDD) and Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (CMDPDH), "Femicide and Impunity in Mexico: A context of structural and generalized violence," (Report presented before the Committee on the Elimination of all forms of Discrimination Against Women). Also available online at http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/CDDandCMDPDH_forthesession_Mexico_CEDAW52.pdf.

homelessness, and the foreclosure crisis.

The National Economic and Social Rights Initiative (NESRI) and the National Law Center on Homelessness and Poverty (NLCHP) coordinated the Special Rapporteur's visit. The Campaign to Restore National Housing Rights, a national coalition of housing rights organizations and community groups, worked in partnership with NESRI to organize city visits and collaborate nationally, which included site visits, town halls, and the participation of over 70 community-based organizations in five cities across the country, as well as Pine Ridge Indian Reservation in South Dakota. NESRI also presented an overview of the issues in a 42-page Primer for the United Nations Special Rapporteur on Adequate Housing Official Visit to the United States. NLCHP facilitated a meeting in Washington, D.C. with federal officials, including individuals from the Obama administration and members of Congress, and collected testimony (both written and video) from communities the Special Rapporteur was unable to visit.

The Special Rapporteur's visit to the U.S. received widespread media coverage, including an article in the *New York Times*, which helped draw attention to the issues of housing and homelessness. The Special Rapporteur's report of her findings, released in March 2010, reflected many of the concerns of the organizations who presented information to the Special Rapporteur. Organizations continue to build upon the momentum provided by the Special Rapporteur's U.S. visit. For example, one year after the Rapporteur's visit, the Campaign to Restore National Housing Rights published its own report, *Our Voices Must Be Heard: A Grassroots Report on the U.S. Mission of the UN Special Rapporteur on Adequate Housing*.⁷⁵⁹



Special Rapporteur on Housing,
Raquel Rolnik

⁷⁵⁹ Compiled from: Movement Blog for the Campaign to Restore National Housing Rights, <http://restorehousingrights.org>; Special Rapporteur on the Right to Adequate Housing Visit 2009, National Law Center on Homelessness and Poverty, <http://wiki.nlchp.org/display/Manual/Special+Rapporteur+on+the+Right+to+Adequate+Housing+Visit+2009>; UN SPECIAL RAPPORTEUR ON ADEQUATE HOUSING VISITS U.S., National Economic and Social Rights Initiative, http://www.nesri.org/programs/housing_rapporteur_visit.html.

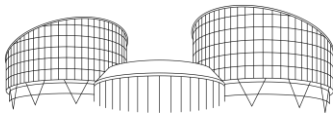
Chapter 10. Advocacy at Regional Human Rights Mechanisms



Regional human rights mechanisms play an important role in monitoring government compliance with human rights obligations. Europe, the Americas, and Africa have their own active regional human rights systems. Each system has many things in common with the United Nations' human rights system, and the regional systems often look to each other and to their UN counterparts for guidance in interpreting human rights language and addressing human rights violations. Nonetheless, each regional system has its own distinct mechanisms and procedures. Individuals and groups concerned about human rights issues in these regions should consider the advantages of engaging with the relevant regional human rights system.

A. The European System

i. The European Court of Human Rights



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

The European Court of Human Rights is an international court set up in 1959 and is located in Strasbourg, France. It is a body of the Council of Europe. Its mandate is to uphold the Convention for the Protection of Human Rights and Fundamental Freedoms, better known as the "European Convention on Human Rights." Forty-seven Council of Europe Member States have ratified the European Convention on

Human Rights and are therefore within the court's jurisdiction.⁷⁶⁰ Cases brought against non-signatories are inadmissible.⁷⁶¹

Much like the individual communications systems of UN treaty bodies, the court hears individual and government applications alleging violations of the rights set out in the European Convention on Human Rights. The court has operated as a full-time court since 1998 and has so far delivered over 10,000 judgments. The court's judgments are binding on the governments concerned and can influence progressive human rights legislation throughout Europe. The court's jurisdiction encompasses 800 million Europeans across the 47 Member States.⁷⁶²

The European Court of Human Rights handles thousands of applications alleging violations of rights under the European Convention in any given year. In 2012, the court received 65,120 new applications, an increase of one percent over 2011.⁷⁶³

Greek Helsinki Monitor Brings Case to European Court of Human Rights

The Greek Helsinki Monitor (GHM), a non-governmental organization, advocated on behalf of 23 Roma schoolchildren against school segregation and the limited access to education for Roma students in Greece. Almost 400 Roma families live in the Greek town of Sofades, and nearly all of them live in Roma housing estates. Many of these estates are close to public schools that non-Roma children attend, but all of the Roma housing estates are in the attendance area for a school that caters almost exclusively to Roma children. GHM appealed to the Ministry of Education, pointing out "a clear ethnic segregation which violates both Greek law and international human rights norms including the European Convention on Human Rights." No action was taken.

GHM then looked to the European Court of Human Rights to end social exclusion faced by the Roma schoolchildren in Sofades. The court ruled in favor of the pupils, stating that "the continuing nature of this situation and the State's refusal to take anti-segregation measures implied discrimination and a breach of the right to education."⁷⁶⁴

The European Court of Human Rights has established specific rules regarding the admissibility of cases:

- Cases may be brought by an individual who has directly suffered from arbitrary detention or another rights violation, or that person's representative.
- At the admissibility stage, an applicant does not need to use a lawyer. But if the case is accepted, the applicant must secure counsel. Some legal aid is available.
- Allegations may accuse only states, not individual persons.
- A person bringing a case before the court must have first exhausted all domestic remedies.
- A person must file an application no later than six months after the final decision in the domestic court or tribunal.
- Applicants must use an official application form.⁷⁶⁵

⁷⁶⁰ European Council of Human Rights, "Court in Brief," accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/Court_in_brief_ENG.pdf.

⁷⁶¹ European Council of Human Rights, "The ECHR in 50 Questions," at 3, accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/50Questions_ENG.pdf.

⁷⁶² ECHR, "Court in Brief," *supra* note 760.

⁷⁶³ ECHR, "European Council of Human Rights: Analysis of Statistics," accessed Jan. 8, 2014, 6, http://www.echr.coe.int/Documents/Stats_analysis_2012_ENG.pdf.

⁷⁶⁴ Amnesty International, "European Court again chides Greece over discrimination against Roma schoolchildren," accessed June 24, 2013, <http://www.amnestyusa.org/news/news-item/european-court-again-chides-greece-over-discrimination-against-roma-schoolchildren>.

⁷⁶⁵ ECHR, "Questions and Answers," accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/Questions_Answers_ENG.pdf.

Application Materials and Contact Information

The European Court of Human Rights provides an application packet online:

http://www.echr.coe.int/Documents/PO_pack_ENG.pdf

Application forms should be sent to:

The Registrar
European Court of Human Rights
Council of Europe
F-67075 Strasbourg cedex

Filing an application with the European Court of Human Rights

A case must be “admissible” under Article 35 of the European Convention on Human Rights before the court will hear it. The application therefore must demonstrate that the Article 35 criteria are satisfied. At the admissibility stage, the most relevant rules concern:

1. The person who is filing the claim;
2. Exhaustion of domestic remedies;
3. Timely filing;
4. The proper bases for claims;
5. Whether the alleged victim has suffered a significant disadvantage; and
6. The form and substance of the application.

The court rejects an extremely high number of applications for failure to satisfy one of the admissibility criteria, so it is important to pay careful attention to each requirement.⁷⁶⁶

Who Can File a Complaint

An individual or a legal entity—including a corporation, an association, a foundation, a political party, or a human rights organization—may file a complaint. The individual or legal entity must be located within the jurisdiction of a State Party to the Convention or, in the alternative, must fall within the jurisdiction of a State Party to the Convention because of that State Party’s extraterritorial acts.⁷⁶⁷

Exhaustion of Domestic Remedies

The court hears disputes only after a complainant has exhausted all other remedies at the domestic level. Article 35 § 1 recognizes that the “obligation to exhaust domestic remedies forms part of customary international law.”⁷⁶⁸ The exhaustion of domestic remedies requirement has been recognized in the International Court of Justice,⁷⁶⁹ the International Covenant on Civil and Political Rights,⁷⁷⁰ the African Charter on Human and Peoples’ Rights,⁷⁷¹ and other international treaties and judgments. The European Court on Human Rights has recognized that a State may waive the benefit of the rule of exhaustion of domestic remedies.⁷⁷² But as a general matter, the court will scrutinize each application for proof that the applicant has pursued every available appeal or other avenue for

⁷⁶⁶ ECHR, “Practical Guide on Admissibility,” accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/Admissibility_guide_ENG.pdf.

⁷⁶⁷ *Ibid.*, 7, 9.

⁷⁶⁸ *Ibid.*, 15(44).

⁷⁶⁹ *Interhandel (Switzerland v. the United States)*, 1959 I.C.J. 6 (Mar. 21).

⁷⁷⁰ UN General Assembly, *International Covenant on Civil and Political Rights*, 1966, Art. 41(1)(c). Also available online at <http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx>.

⁷⁷¹ African Commission on Human and Peoples’ Rights (ACHPR), *African (Banjul) Charter on Human and Peoples’ Rights*, 1981, Art. 50, 56(5). Also available online at http://www.achpr.org/files/instruments/achpr/banjul_charter.pdf.

⁷⁷² ECHR, “Practical Guide on Admissibility,” *supra* note 766, at 15(44).

relief at the domestic level. For claims against State Parties that are members of the European Union, an applicant must first exhaust remedies with the European Union courts, including the Court of Justice of the European Union (see text box below).⁷⁷³

Timeliness

Article 35 § 1 requires that an applicant file an application for relief no later than six months after the date on which all domestic remedies were exhausted.⁷⁷⁴ This six-month time period begins upon the date of the final decision made in the domestic remedy process.⁷⁷⁵ The court will examine applications to ensure that an applicant has not tried to circumvent the six-month time limit by “seeking to make inappropriate or misconceived applications to bodies or institutions which have no power or competence to offer effective redress for the complaint in issue under the Convention.”⁷⁷⁶

A Summary Letter Might Extend the Six-Month Deadline

If time is running short, an applicant can consider submitting a brief summary of the application as soon as practicable to preserve the claim. Rule 47(5) of the Rules of the Court states that the “date of introduction of the application for the purposes of Article 35 § 1 of the Convention shall as a general rule be considered to be the date of the first communication from the applicant setting out, even summarily, the subject matter of the application, provided that a duly completed application form has been submitted within the time-limits laid down by the court. The court may for good cause nevertheless decide that a different date shall be considered to be the date of introduction.”⁷⁷⁷ The summary letter to the Registrar of the Court should contain all information regarding the claim that would otherwise be in the application form, as well as all necessary supporting documents. Then, the applicant should submit the completed application form to the Registrar as quickly as possible. There is no guarantee that a summary letter will extend the six-month deadline, but the court’s Institution of Proceedings guide states that a letter can possibly be accepted in lieu of the application form in order to satisfy the six-month filing deadline.⁷⁷⁸

Basis of the Claim

An application must be based on an alleged violation of the European Convention on Human Rights. The Convention sets forth certain prohibitions and obligations of State Parties and recognizes certain human rights. These rights, prohibitions, and obligations are set forth in the Articles of the Convention. An application must expressly allege a violation of one or more articles of the Convention.

Rights Recognized in the European Convention on Human Rights

The European Convention recognizes the following rights, among others:

Obligation to respect human rights	Right to respect for private and family life
Right to life	Freedom of thought, conscience, and religion

⁷⁷³ Joint Communication from Presidents Costa and Skouris, Jan. 24, 2011, 2, accessed Dec. 2, 2013, http://curia.europa.eu/jcms/upload/docs/application/pdf/2011-02/cedh_cjue_english.pdf.

⁷⁷⁴ European Court of Human Rights, European Convention on Human Rights, 1950, Art. 35. Also available online at http://www.echr.coe.int/Documents/Convention_ENG.pdf.

⁷⁷⁵ ECHR, “Practical Guide on Admissibility,” *supra* note 766, at 22(71) (quoting Paul and Audrey Edwards v. the United Kingdom, Reports of Judgments and Decisions 2002-II).

⁷⁷⁶ *Ibid.*, 22(72) (quoting Fernie v. the United Kingdom, The European Court of Human Rights (Fourth Section) (Jan. 5, 2006)).

⁷⁷⁷ ECHR Rules of the Court, 2014, Rule 47(5). Also available online at http://www.echr.coe.int/Documents/Rule_47_ENG.pdf.

⁷⁷⁸ ECHR, “Institution of Proceedings Guide,” accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/PD_institution_proceedings_ENG.pdf.

Rights Recognized in the European Convention on Human Rights	
Prohibition of torture	Freedom of expression
Prohibition of slavery and forced labor	Freedom of assembly and association
Right to liberty and security	Right to marry
Right to a fair trial	Prohibition of discrimination
No punishment without due process of law	

Significant Disadvantage

Under Article 35 § 3 (b), an applicant must show that he or she has suffered a significant disadvantage.⁷⁷⁹ This new admissibility requirement entered into force in 2010 in an effort to curb the court's increasing caseload.⁷⁸⁰ According to the court, a significant disadvantage may involve pecuniary interests,⁷⁸¹ important questions of principle,⁷⁸² and delays of government actions.⁷⁸³ The court has rejected claims that totaled well under 50 Euros or involved very short delays in government action that did not result in any injury to the applicant.

Form and Substance of the Application

A standardized application packet is available at the court's website (<http://www.echr.coe.int>) under the "Applicants" section. At present, applications must be printed out and mailed to the Registrar of the ECHR.⁷⁸⁴ On-line applications (currently available only for applicants using the Swedish and Dutch languages) can be found under the "Applicants" section of the website. Applicants may also file an application by fax, but must forward the signed original application form by post within eight weeks of the initial contact with the court.⁷⁸⁵

Rule 47 of the Rules of the Court defines the information that is required to be in an application. An Application "shall set out:

- (a) The name, date of birth, nationality, sex, occupation and address of the applicant;
- (b) The name, occupation and address of the representative, if any;
- (c) The name of the Contracting Party or Parties against which the application is made;
- (d) A succinct statement of the facts;
- (e) A succinct statement of the alleged violation(s) of the Convention and the relevant arguments;
- (f) A succinct statement on the applicant's compliance with the admissibility criteria (exhaustion of domestic remedies and the six-month rule) laid down in Article 35 § 1 of the Convention; and
- (g) The object of the application;
- (h) And be accompanied by copies of any relevant documents and in particular the decisions, whether or judicial or not, relating to the object of the application."⁷⁸⁶

In addition, applicants must:

⁷⁷⁹ ECHR, European Convention on Human Rights, *supra* note 774, Art. 35 § 3(b).

⁷⁸⁰ ECHR, "Practical Guide on Admissibility," *supra* note 766, at 75.

⁷⁸¹ ECHR, "Practical Guide on Admissibility," *supra* note 766, at 75–76 (cases involving sums of money less than 90 euros, 12 euros, and 25 euros were considered to not be a significant disadvantage); *Ionescu v. Romania*, The European Court of Human Rights (Third Section) (June 1, 2010); *Korolev v. Russia*, Reports of Judgments and Decisions 2010; *Vasilchenko v. Russia*, The European Court of Human Rights (First Section) (Sept. 23, 2010); *Rinck v. France*, The European Court of Human Rights (Fifth Section) (Oct. 19, 2010); *Gaftoniuc v. Romania*, The European Court of Human Rights (Third Section) (Feb. 22, 2011).

⁷⁸² ECHR, "Practical Guide on Admissibility," *supra* note 766, at 76; *Korolev v. Russia*, Reports of Judgments and Decisions 2010.

⁷⁸³ ECHR, "Practical Guide on Admissibility," *supra* note 766, at 76; *Korolev v. Russia*, Reports of Judgments and Decisions 2010; *Gaglione and Others v. Italy*, The European Court of Human Rights (Dec. 21, 2010).

⁷⁸⁴ The Registrar, European Court of Human Rights, Council of Europe, F-67075 Strasbourg cedex.

⁷⁸⁵ Fax no. +33 (0)3 88 41 27 30.

⁷⁸⁶ ECHR Rules of the Court, 2014, *supra* note 777, Rule 47.

- (a) Provide information, notably the documents and decisions referred to in paragraph 1(h) of the this Rule, enabling it to be shown that the admissibility criteria (exhaustion of domestic remedies and the six-month rule laid down in Article 35 § 1 of the Convention) have been satisfied; and
- (b) Indicate whether they have submitted their complaints to any other procedure of international investigation or settlement.⁷⁸⁷

An application must disclose the alleged victim's name, but an application may request anonymity. "Applicants who do not wish their identity to be disclosed to the public shall so indicate and shall submit a statement of the reasons justifying such a departure from the normal rule of public access to information in proceedings before the Court. The President of the Chamber may authorize anonymity or grant it of his or her own motion."⁷⁸⁸

Process After the Application is Filed

Once the application has passed through the administrative screening and satisfied the admissibility criteria, the application goes through several additional stages. If initial analysis determined that the application is inadmissible, the case may be concluded at that point, depending on the reasons for the inadmissibility decision. If the application is admissible, the court conducts an examination of the merits of the case. This examination will result in a judgment finding a violation or no violation. If the court determines that there has been a violation, it may order a variety of remedies: compensation for the victim; individual measures to assist the victim, such as restitution or reopening of domestic proceedings; and general measures, such as amendments to the laws of the State Party.

Regardless of whether there is a judgment in favor of the applicant or a judgment determining that the applicant's claims are unfounded, the unsuccessful party may request a re-examination of the case. If the request is denied, the case is concluded. If the request is accepted, the case is referred to the Grand Chamber for a final judgment.

The court provides a helpful flowchart outlining all of the steps in the application process:

⁷⁸⁷ Ibid. Rule 47.

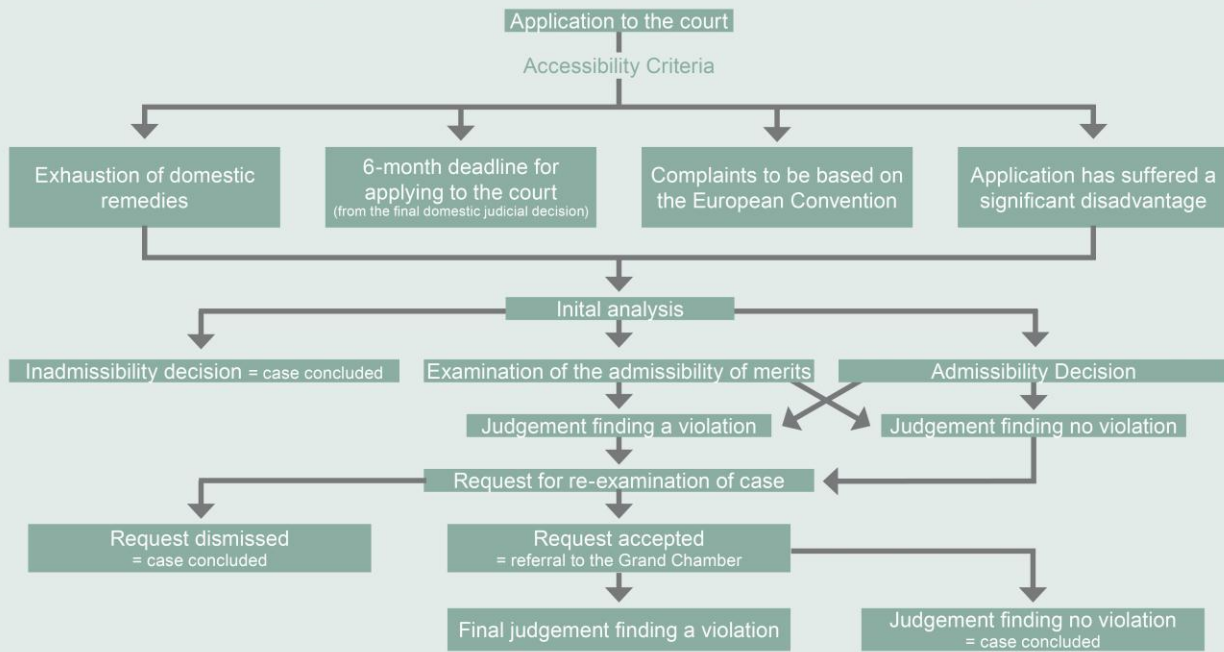
⁷⁸⁸ Ibid. Rule 47(3).

THE LIFE OF AN APPLICATION IN THE EUROPEAN COURT

Proceedings at national level



Proceedings before the European Court of Human Rights



Execution of Judgement



Monitoring Proceedings at the European Court of Human Rights

Monitoring the proceedings at the European Court of Human Rights is relatively straightforward. The court publishes case decisions, case law, annual reports, statistics, press releases, hearing information, and official texts. This information is accessible through the court's website at no cost. Advocates should examine the court's website (<http://www.echr.coe.int>), in particular the "Library," "Official Texts," and "Publications" sections.

Webcasts of Hearings

The court broadcasts hearings from its website in several languages. Under the "Hearings" section of the Court's website, visitors may watch hearings; read transcripts, decisions and judgments; and listen to the hearings in the original language the hearings were held (sometimes translated into other languages). Webcasts of morning hearings are available by 2:30 p.m. local time the same day.

Decisions, Case Law, and Official Texts

The court has an official case law database called HUDOC. It contains nearly all decisions and judgments of the court.⁷⁸⁹ The court's website includes a user's manual that explains how to conduct searches of the database. The court's publications about its own case law can also be extremely valuable. These useful guides include the *Case-Law Information Note*, the *Handbooks on European Law*, the *Guides on Case-Law*, the *Case-Law Research Reports*, and an *Admissibility Guide*.

Case-Law Information Note

The Case-Law Information Note is a monthly publication that includes "summaries of cases (judgments, admissibility decisions, communicated cases and cases pending before the Grand Chamber) considered to be of particular interest. Each summary has a headnote and is classified by the Convention Article(s) to which the case relates and by keywords."⁷⁹⁰

Handbooks on European Law

The court also publishes several handbook guides related to areas of interest in European law. The handbooks are joint publications by the court and the European Union Agency for Fundamental Rights. So far they have published the Handbook on European Non-Discrimination Law and the Handbook on European Law Relating to Asylum, Borders, and Immigration.

Guides on Case-Law

The Guides on Case-Law are "prepared by the Registry (Research Division) on its own authority" and are not binding on the court itself.⁷⁹¹ These guides can be extremely useful to advocates and provide a solid overview of the areas covered. Three guides have been published so far and are available on the court's website. The Guide on Article 4: Prohibition of Slavery and Forced Labour is available in English, French, and Chinese. The Guide on Article 5: Right to Liberty and Security is available in English, French, Russian, Turkish, and Ukrainian. The Guide on Article 6: Right to a Fair Trial is available in English and French.⁷⁹²

⁷⁸⁹ ECHR, "HUDOC database," accessed Jan. 8, 2014, <http://hudoc.echr.coe.int>.

⁷⁹⁰ ECHR, "Case-Law Information Note," accessed Jan. 8, 2014, http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n134528850996_Pointer.

⁷⁹¹ Meyer & Nouzha Advocates, "ECHR Key Case-Law Issues," accessed Jan 8, 2014, <http://www.meyer-nouzha-advocates.com/english/european-court-of-human-rights-key-case-law-issues/>.

⁷⁹² ECHR, "Case-law Guides," accessed Jan. 8, 2014, http://www.echr.coe.int/Pages/home.aspx?p=caselaw/analysis&c=#n13693846752619364551309_pointer.

Case-Law Research Reports

The Case-Law Research Reports focus on individual topics of importance to the court. The court has published eleven reports covering a variety of subjects, such as bioethics and the case law of the court, new admissibility criteria, cultural rights, and positive obligations under Article 10.⁷⁹³

Admissibility Guide

The court's Admissibility Guide is an important resource for people considering whether to file an application. It provides guidance on the admissibility criteria and gives providing case law examples of how the court has interpreted the admissibility criteria.

Observers may follow the European Court of Human Rights using several social media tools. The European Court of Human Rights distributes press releases on Twitter (@ECHR_Press), and the court has a Facebook page and a YouTube channel (www.youtube.com/user/EuropeanCourt).

ii. The European Court of Justice

The Court of Justice of the European Union, also called the European Court of Justice, rules on European Union (EU) law, which covers the 28 EU Member States, while the European Court of Human Rights rules on the European Convention on Human Rights, which covers the 47 Member States of the Council of Europe. The European Court of Justice is located in Luxembourg, while the European Court of Human Rights is located in Strasbourg, France.

The authority of the European Court of Justice rests in the treaties of the EU, including the Charter of Fundamental Rights of the European Union, and the European Convention for the Protection of Human Rights and Fundamental Freedoms, to which the EU has acceded. The task of the European Court of Justice is to "ensure that in the interpretation and application of European Union Law the law is observed."⁷⁹⁴ The European Court of Justice's work includes, but is not limited to, human rights issues.

The European Court of Justice typically hears five types of cases:

- (a) **requests for a preliminary ruling**—when national courts ask the Court of Justice to interpret a point of EU law;
- (b) **actions for failure to fulfill an obligation**—against EU governments for not applying EU law;
- (c) **actions for annulment**—against EU laws thought to violate EU treaties or fundamental rights;
- (d) **actions for failure to act**—against EU institutions for failing to make decisions required under EU law; and
- (e) **direct actions**—brought by individuals or legal entities against EU decisions or actions.⁷⁹⁵

For purposes of exhaustion of remedies, the European Court of Justice may be considered a "national" or "domestic" court in some circumstances. If, for example, a person has a human rights claim against an EU body or regulation, the person must exhaust remedies with the European Court of Justice before turning to the European Court of Human Rights. A person who has a human rights claim against an EU Member State usually must bring a case in that country's national courts, but may ask those courts to "refer for a preliminary ruling" a human rights issue to the European Court of Justice.⁷⁹⁶

⁷⁹³ ECHR, "Research Report: Positive Obligations on Member States Under Article 10 to Protect Journalists and Prevent Impunity," accessed Jan. 8, 2014, http://www.echr.coe.int/Documents/Research_report_article_10_ENG.pdf.

⁷⁹⁴ Court of Justice of the European Union (CJEU), "Your Questions About...", June, 2010, http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-05/cjuecoursinterntionales_en.pdf.

⁷⁹⁵ European Union, "Court of Justice of the European Union," accessed Jan. 8, 2014, <http://europa.eu/about-eu/institutions-bodies/court-justice/>.

⁷⁹⁶ Joint Communication from Presidents Costa and Skouris, *supra* note 773, at 2.

As of January 2014, the European Union consists of ⁷⁹⁷ :		The Council of Europe includes all of the 28 EU Member States, plus ⁷⁹⁸ :	
Austria	Italy	Albania	Monaco
Belgium	Latvia	Andorra	Montenegro
Bulgaria	Lithuania	Armenia	Norway
Croatia	Luxembourg	Azerbaijan	Russia
Cyprus	Malta	Bosnia and Herzegovina	San Marino
Czech Republic	Netherlands	Georgia	Serbia
Denmark	Poland	Iceland	Switzerland
Estonia	Portugal	Liechtenstein	Turkey
Finland	Romania	The Former Yugoslav Republic of Macedonia	Ukraine
France	Slovakia	Moldova	
Germany	Slovenia		
Greece	Spain		
Hungary	Sweden		
Ireland	United Kingdom		

Any EU citizen may bring an action before the General Court of the European Court of Justice against an act of any EU institution that is of individual concern to the individual or against an EU regulatory act that directly affects the individual.⁷⁹⁹ Citizens of the EU may also submit their observations to the European Court of Justice when it hears cases referred for a preliminary hearing.

European Court of Justice Rules that Sexual Orientation can be a Basis for Asylum under EU Law

In 2011, three African men from Senegal, Sierra Leone, and Uganda, applied for asylum in the Netherlands on the grounds that they faced persecution for being homosexual. Immigration authorities denied their applications, noting that the men could have behaved in a restrained manner to hide their identities. The men appealed to the Dutch court system, where the judge referred the question to the European Court of Justice, asking for a ruling clarifying standards for applying European Union law on asylum. In 2013, the court found that homosexuality warranted asylum if a person's home country imposed sentences of imprisonment for sexual identity. Further, "a person's sexual orientation is a characteristic so fundamental to his identity that he should not be forced to renounce it,' [and it is] not reasonable to expect gay people to conceal their sexual identity."⁸⁰⁰ The case now goes back to the domestic court to apply the ECJ's ruling.



⁷⁹⁷ European Union, *Member States of the EU*, accessed Dec. 2, 2013, <http://europa.eu/about-eu/countries/>.

⁷⁹⁸ Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms*, <http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=005&CM=&DF=&CL=ENG>.

⁷⁹⁹ CJEU, "Your Questions About..." *supra* note 794.

⁸⁰⁰ Al Jazeera America, "EU Court Says Anti-Gay Laws can be Grounds for Asylum," accessed Jan. 8, 2014, <http://america.aljazeera.com/articles/2013/11/7/eu-court-rules-antigaylawscanbegroundsforasylum.html>. The judgment is *X and Others v. Minster voor Immigratie en Asiel (C-199/12)*, Court of Justice of the European Union (Fourth Chamber) (Nov. 7, 2013). Available online at <http://curia.europa.eu/juris/liste.jsf?num=C-199/12&language=en>.

iii. Other European Human Rights Mechanisms

The European Committee for the Prevention of Torture

The Council of Europe set up the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in 1989.⁸⁰¹ The CPT is a non-judicial preventive mechanism to protect persons deprived of their liberty against torture and other forms of ill-treatment, complementing some of the work of the European Court of Human Rights. The CPT organizes visits to places of detention in Council of Europe countries, including prisons, juvenile detention centers, police stations, and psychiatric hospitals. After the CPT notifies a country about a potential review, a CPT delegation may go to any place in that country where persons are deprived of their liberty at any time without notice. After visits, the CPT sends a detailed report of its findings to the country under review. The report includes findings, recommendations, and requests for further information to improve affected persons' liberties.

The European Instrument for Democracy and Human Rights

As an institution of the European Union, the European Commission launched the European Instrument for Democracy and Human Rights (EIDHR) in 2006 to provide support for the promotion of democracy and human rights in **non-EU countries**. The EIDHR uses political dialogue, diplomatic initiatives, and various instruments for financial and technical cooperation to implement EU policies protecting human rights.⁸⁰² The EIDHR works with, for, and through civil society organizations and can grant aid where no established development cooperation exists. The EIDHR can intervene without the agreement of the governments of third countries. The EIDHR helps support civil society organizations and individuals who defend democracy, as well as intergovernmental organizations that implement international mechanisms for the protection of human rights.

Agency for Fundamental Rights

The European Union's Agency for Fundamental Rights (FRA) provides European Union institutions and EU countries with independent, evidence-based advice on fundamental rights.⁸⁰³ The FRA collects and analyzes data, provides assistance, and raises fundamental rights awareness to coordinate and ensure necessary information reaches the right people, whether information is directed toward the general public or different levels of government and EU institutions. The FRA has a five-year framework for implementing specific projects and activities within thematic areas. FRA's areas of focus include: access to justice; crime victims (including compensation for victims); information society (respect for private life and protection of personal data, in particular); Roma integration; judicial cooperation (excluding criminal matters); the rights of the child; discrimination; immigration and integration of migrants; and racism, xenophobia, and related intolerance.

EuropeAid

EuropeAid enables the European Commission to address development and cooperation issues in a unified way with a view to reducing poverty in the world, ensuring sustainable development, and promoting democracy, peace, and security. EuropeAid partners with NGO networks to consult, create dialogue, and further understand what needs to be done to promote human rights. One NGO network, called CONCORD (Confederation for Cooperation of Relief and Development NGOs), is a group of 27 national associations, 18 international networks, and 2 associate members, together representing over 1,800 NGOs across Europe. CONCORD's affiliates work to improve the policies affecting development cooperation and humanitarian aid.⁸⁰⁴ EuropeAid also works with: the

⁸⁰¹ European Committee for the Prevention of Torture (CPT), "CPT in Brief," accessed Jan. 8, 2014, <http://www.cpt.coe.int/en/about.htm>.

⁸⁰² European Commission, "European Instrument for Democracy & Human Rights (EIDHR)," accessed Jan. 8, 2014, http://ec.europa.eu/europeaid/how/finance/eidhr_en.htm.

⁸⁰³ European Union Agency for Fundamental Rights (FRA), "What We Do," accessed Jan. 8, 2014, <http://fra.europa.eu/en/about-fra/what-we-do>.

⁸⁰⁴ Concord, "About Us," accessed Jan. 8, 2014, <http://www.concordeurope.org/about-us>.

European Network of Political Foundations (ENOP),⁸⁰⁵ the European Peace-Building Liaison Office (EPLO),⁸⁰⁶ the International Trade Union Confederation (ITUC),⁸⁰⁷ and the Human Rights and Democracy Network (HRDN).⁸⁰⁸

B. The Inter-American System

The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights are autonomous bodies of the Organization of American States. Together, the Inter-American Commission and the Inter-American Court interpret and enforce the Charter of the Organization of American States, the American Declaration on the Rights and Duties of Man, the American Convention on Human Rights, and as well as several subsidiary human rights treaties adopted by the General Assembly of the OAS.⁸⁰⁹ The Inter-American Commission is based in Washington, D.C., and the Inter-American Court is based in San Jose, Costa Rica.

The Organization of American States' Instruments for the Protection and Promotion of Human Rights ⁸¹⁰
The American Declaration of the Rights and Duties of Man (adopted 1948)
The American Convention on Human Rights ("Pact of San José, Costa Rica") (adopted 1969, entered into force 1978)
The Inter-American Convention to Prevent and Punish Torture (adopted 1985, entered into force 1987)
The Additional Protocol to the American Convention on Human Rights in the area of Economic, Social and Cultural Rights ("Protocol of San Salvador") (adopted 1988, entered into force 1999)
The Protocol to the American Convention on Human Rights to Abolish the Death Penalty (adopted 1990, entered into force 1991)
The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women ("Convention of Belém do Pará") (adopted 1994, entered into force 1995)
The Inter-American Convention on Forced Disappearance of Persons (adopted 1994, entered into force 1996)
The Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (adopted 1999, entered into force 2001)
The Inter-American Democratic Charter (adopted 2001)
The Declaration of Principles on Freedom of Expression (adopted 2000)
Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas (adopted 2008)
<i>Note: The Inter-American Commission on Human Rights maintains extensive information about the interpretation of these treaty provisions, including decisions on past petitions, on its website: www.cidh.org/casos.eng.htm.⁸¹¹</i>

⁸⁰⁵ European Network of Political Foundations, "Homepage," accessed Jan. 8, 2014, <http://www.european-network-of-political-foundations.eu/cms/>.

⁸⁰⁶ European Peacebuilding Liaison Office, "EPLO," accessed Jan. 8m 2014, <http://www.eplo.org/>.

⁸⁰⁷ International Trading Union Confederation (ITUC), "International Trading Union Confederation," accessed Jan. 8, 2014, <http://www.ituc-csi.org/?lang=en>.

⁸⁰⁸ Human Rights and Democracy Network (HRDN), "Human Rights and Democracy Network," accessed Jan. 8, 2014, <http://www.hrdn.eu/>.

⁸⁰⁹ Organization of American States, Inter-American Commission on Human Rights, "IACHR, Introduction," accessed Dec. 2, 2013, <http://www.oas.org/en/iachr/mandate/Basics/intro.asp>.

⁸¹⁰ Ibid.

The Center for Justice and International Law maintains a Law and Jurisprudence database, a tool for lawyers, victims, and human rights defenders with legal judgments and other authoritative resources from the Inter-American Commission and the Inter-American Court: <http://cejil.org/en/derecho-y-jurisprudencia/casos>.

i. The Inter-American Commission on Human Rights



The Inter-American Commission on Human Rights (IACHR), based in Washington, D.C., investigates individual complaints, conducts independent monitoring, and refers cases to the Inter-American Court. “All 35 independent states of the Americas have ratified the OAS Charter and are members of the Organization.”⁸¹² Twenty-three of those States have also ratified the American Convention on Human Rights.⁸¹³

a. Individual Petitions and Cases

The IACHR has the authority to receive, analyze, and investigate “individual petitions that allege violations of human rights, with respect to both the Member States of the OAS that have ratified the American Convention, and those Member States that have not ratified it.”⁸¹⁴ Different rules and procedures apply, depending on whether the petition alleges violations against an OAS Member State that has ratified the American Convention.⁸¹⁵ In general, the petition must contain facts setting forth a violation of human rights recognized in the American Declaration of the Rights and Duties of Man (for allegations against non-Convention States) or the American Convention or another Inter-American human rights treaty (for allegations against State Parties to the American Convention). In most circumstances, the petition must show that the petitioner has exhausted domestic remedies.⁸¹⁶

After the IACHR receives a petition, it sends the government the pertinent parts of the petition and requests relevant information. The petitioner may comment on the government’s response. If the commission determines that the petition is admissible, the IACHR will review it on the merits, potentially conducting an on-site investigation of the allegations.⁸¹⁷ The IACHR may request further information from the parties and usually holds a hearing for the presentation of factual and legal arguments. In most cases, the IACHR will try to reach a friendly settlement between the petitioner and the government.

⁸¹¹ The Center for Justice and International Law (CEJIL) has extensive experience with litigation of cases before the IACHR and also is a good resource for advocates considering filing a petition at the IACHR. It maintains a database of jurisprudence from the Inter-American system, as well as a directory of *pro bono* attorneys, NGOs, and law clinics willing to consult on cases in the Inter-American system.

⁸¹² Organization of American States, “Member States,” accessed Dec. 2, 2013, http://www.oas.org/en/member_states/default.asp?.

⁸¹³ Organization of American States, “Multilateral treaties,” accessed Dec. 2, 2013, http://www.oas.org/dil/treaties_B-32_American_Convention_on_Human_Rights_sign.htm. (Two additional countries—Venezuela and Trinidad & Tobago—ratified but subsequently denounced the American Convention.)

⁸¹⁴ Organization of American States, “IACHR, Introduction,” *supra* note 809.

⁸¹⁵ *Ibid.*, n. 11.

⁸¹⁶ Inter-American Commission on Human Rights (IACHR), American Convention on Human Rights, 1969, Art. 20(c). Available online at <http://cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

⁸¹⁷ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights, 2009, Art. 39. Also available online at <http://www.oas.org/en/iachr/mandate/Basic/rulesiachr.asp>.

The Inter-American Commission on Human Rights Provides a Checklist of Things to Include in a Petition or Complaint

Every petition should include:

- ✓ The personal information of the alleged victim(s) and that of his/her next of kin;
- ✓ The personal information on the petitioner(s), such as complete name, phone number, mailing address, and email;
- ✓ A complete, clear, and detailed description of the facts alleged that includes how, when, and where they occurred, as well as the State considered responsible;
- ✓ An indication of the State authorities considered responsible;
- ✓ The rights considered violated, if possible;
- ✓ The judicial bodies or authorities in the State to which one has turned to remedy the alleged violations;
- ✓ The response of the State authorities, especially of the courts of justice;
- ✓ If possible, uncertified and legible copies of the principal complaints and motions filed in pursuit of a remedy, and of the domestic judicial decisions and other annexes considered relevant, such as witness statements; and
- ✓ An indication as to whether the petition has been submitted to any other international organization competent to resolve cases.

The Center for Justice and International Law publishes a Pro Bono Guide, which is a directory of all persons and organizations offering free counseling services and legal assistance before the Inter-American Commission and Inter-American Court of Human Rights: <http://cejil.org/en/pro-bono-guide>.

The IACHR's contact information for submitting petitions is:

Inter-American Commission on Human Rights
Organization of American States
1889 F Street, N.W.
Washington D.C., 20006
United States of America
Fax: (202) 458 3992
E-Mail: cidhoea@oas.org
Web Site: www.cidh.org

The commission also provides a secure, on-line complaint form, along with instructions for submitting a petition: https://www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=E.

Victims' Legal Assistance Fund

If the IACHR decides that a petition is admissible, the petitioner or a victim in the case may apply to the Inter-American Commission's Victim's Legal Assistance Fund. The fund may cover expenses for: (1) gathering and sending documentary evidence; (2) appearance of the alleged victim, witnesses, and experts at commission hearings; and (3) other expenses that the IACHR considers pertinent for processing the case.⁸¹⁸ Requests must be in writing. For more information, visit: <http://www.oas.org/en/iachr/mandate/Basics/fund.asp>.

⁸¹⁸ Inter-American Commission on Human Rights, "Legal Assistance Fund," accessed Jan. 8, 2014, <http://www.oas.org/en/iachr/mandate/Basics/fund.asp>.

If the IACHR determines that there has been a violation, the IACHR will issue the government a preliminary, unpublished report with proposed recommendations. The government also receives a deadline for reporting back to the IACHR on the measures it has taken to comply with the proposed recommendations.⁸¹⁹ If the matter has not been resolved within three months, the IACHR may issue a final report containing the commission's opinion and final conclusions and recommendations. This final report typically gives the parties a deadline to follow up with the IACHR about compliance with the commission's final recommendations.⁸²⁰ The commission later evaluates compliance and decides whether to publish the report.⁸²¹ If the commission publishes the report, it may also adopt follow-up measures and report on progress as appropriate.⁸²²

Petitions to the IACHR can be used strategically to: (1) allow for new arguments to be considered that may be barred from consideration in a domestic court for procedural reasons; (2) allow more time to negotiate domestic remedies pending IACHR review; and (3) generate important publicity on the international stage relative to the issues in the case. Bringing a petition before the IACHR can also help provide a survivor of human rights abuses an opportunity to be heard.

Inter-American Commission on Human Rights: Comparison of the Rules and Procedures for Individual Petitions		
	State has not ratified the American Convention	State has ratified the American Convention
Basis for human rights	American Declaration of Rights and Duties of Man, especially Articles I-IV, XVIII, XXV-XXVI	American Convention on Human Rights, other Inter-American human rights treaties that the State has ratified
Relevant language in the Commission Statute	Article 20	Article 19
Relevant Rules of Procedure for the Inter-American Commission	Articles 38-44, 47-49, 51-52	Articles 26-49
Who may lodge a petition?	No specific rule	A person, group of people, or non-governmental organization legally recognized in an OAS State American Convention Art. 44.
May a petitioner request to be anonymous?	No specific rule	Petitioners may request that their identity be withheld from the State, but the petition must provide reasons. Rules of Procedure Art. 28.

⁸¹⁹ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights, *supra* note 817, at Art. 44.

⁸²⁰ *Ibid.* Art. 47.

⁸²¹ *Ibid.* Art. 47(3).

⁸²² *Ibid.* Art. 48.

Inter-American Commission on Human Rights: Comparison of the Rules and Procedures for Individual Petitions		
	State has not ratified the American Convention	State has ratified the American Convention
Is it necessary to exhaust domestic remedies?	Yes. The commission must verify whether domestic legal procedures and remedies have been duly applied and exhausted. Commission Statute Art. 20(c).	Not always. The exhaustion requirement does not apply if domestic law does not provide due process for the protection of the human rights at issue, or if the petitioner has been denied access to remedies or has been prevented from exhausting remedies, or if there has been unwarranted delay in rendering final judgment under available domestic remedies. Rules of Procedure Art. 31(2).
When must the petition be filed?	No specific rule	No later than 6 months after the petitioner receives notice of the final judgment relevant to exhaustion of domestic remedies. If one of the exhaustion exceptions applies, then the petition must be filed within a reasonable time, considering the circumstances of the case. Rules of Procedure Art. 32; American Convention Art. 46.
Can the commission refer the case to the Inter-American Court of Human Rights?	No specific rule	Yes. If the commission determines that there has been a violation, the petitioner may request that the commission refer the case to the Inter-American Court. If the commission determines that the State has not complied with the commission's recommendations, it may refer the case to the Inter-American Court. Rules of Procedure Art. 44(3), Art. 45.

Jessica Lenahan and the ACLU: Using the Inter-American Human Rights System to Hold Officials Accountable⁸²³

Jessica Lenahan's three daughters were abducted by their father in 1999, in violation of a court restraining order that should have protected them. In spite of multiple calls to police in Castle Rock, Colorado, Lenahan was told that there was nothing the police could do. Later that night, Simon Gonzales drove to the Castle Rock police station and opened fire. After he was killed in a shoot-out with police, the officers found the dead bodies of the three girls in his truck.

Lenahan filed a lawsuit against the Castle Rock Police Department, asserting that the police had breached their duty to protect her and her daughters by failing to enforce an order of protection against her abusive husband. In 2005, after conflicting decisions in lower federal courts, the U.S. Supreme Court held that Lenahan had no individual right to enforcement of her order for protection and therefore could not sue.

Lenahan and her lawyers at the American Civil Liberties Union (ACLU) decided to file a petition with the Inter-American Commission of Human Rights. This was the first time that an individual complaint by a victim of domestic violence had been brought against the United States for international human rights violations.

The IACHR found Lenahan's petition admissible and held a hearing in October 2008. Lenahan was able to testify about her experiences with domestic violence and the police department's refusal to enforce the order for protection—something she was never able to do in the U.S. legal system. Taking her case to an international human rights mechanism has had a beneficial impact on Lenahan. "This was the first time I had ever been heard in a court . . . it lifted a burden of having to carry the facts and the details of what I knew to be true. To have an audience with the State Department was probably the best part of it. Not just being able to say it and recount it, but that they had to listen."

In 2011, the IACHR published its final report in the case, concluding that the U.S. Government "failed to act with due diligence to protect" Lenahan and her daughters "from domestic violence, which violated the State's obligation not to discriminate and to provide for equal protection before the law under Article II of the American Declaration." The IACHR further found that the U.S. Government had "failed to undertake reasonable measures to protect the life of [the girls,] in violation of their right to life under Article I of the American Declaration, in conjunction with their right to special protection as girl-children under Article VII of the American Declaration."



Jessica Lenahan

⁸²³ Jessica Gonzalez v. U.S.A., American Civil Liberties Union. <http://www.aclu.org/human-rights-womens-rights/jessica-gonzales-v-usa>; Perfecting Our Union: Human Rights Success Stories from Across the United States, The U.S. Human Rights Fund, March 2010.

Finally, the IACHR found that the U.S. Government had violated Lenahan's "right to judicial protection . . . under Article XVIII of the American Declaration."⁸²⁴

In its final report, the IACHR recommended that the United States:

- Investigate the systemic failures related to the enforcement of Lenahan's protection order in order to guarantee that those failures would not recur;
- Offer full reparations to Lenahan;
- Adopt multifaceted legislation at the federal and state levels to make enforcement of protection orders and other precautionary measures mandatory, and to create effective implementation mechanisms and training programs;
- Adopt multifaceted legislation at the federal and state levels to protect children in the context of domestic violence;
- Continue adopting policies and programs aimed at restructuring the stereotypes of domestic violence victims and to promote eradication of discriminatory socio-cultural patterns impeding full protection from domestic violence; and
- Design protocols specifying the proper components of a law enforcement investigation of a report of missing children in the context of a report of a violation of a restraining order.⁸²⁵

Since the decision, both the national and local governments have undertaken positive measures toward implementation. On a national level, the U.S. Department of Justice investigated both the New Orleans and the Puerto Rico police departments and found a police failure to adequately respond to cases of violence against women, namely domestic violence and sexual assault.⁸²⁶ Following these findings, the U.S. Department of Justice entered into consent decrees with both police departments, requiring them to reform their protocols and practices so as to end discrimination based on ethnicity, race, sex, and sexual orientation.⁸²⁷ The U.S. Department of Justice is responsible for monitoring compliance with these consent decrees.⁸²⁸ Second, seven jurisdictions have adopted resolutions recognizing domestic violence is a human rights violation.⁸²⁹ Some of these resolutions focus on state and local governments and affirm their obligation to protect people within their jurisdictions against domestic abuse.⁸³⁰ A resolution from the Seattle Human Rights Commission, on the other hand, focuses on the federal government's responsibility to protect and promote human rights, and it calls upon the "U.S. House of Representatives to pass the Senate version of VAWA."⁸³¹ Jessica Lenahan's attorneys are still engaged in discussions with the U.S. government on further implementation of the decision.

b. Rapporteurships

The seven commissioners who serve on the IACHR also hold various thematic rapporteurships. The IACHR creates these rapporteurships "to strengthen, promote, and systematize the Inter-American Commission's own

⁸²⁴ IACHR, Report Number 80/11, *Jessica Lenahan (Gonzales) et al. v. United States*, July 21, 2011, ¶ 201. Also available online <https://www.aclu.org/womens-rights/jessica-gonzales-v-usa-iachr-final-report>.

⁸²⁵ *Ibid.*

⁸²⁶ The Advocates for Human Rights, University of Miami School of Law Human Rights Clinic, Legal Momentum, and Women Enabled, *Written Statement on Domestic Violence, Gun Violence, and "Stand Your Ground" Laws* (2013), ¶¶ 9, 72–74.

⁸²⁷ *Ibid.*

⁸²⁸ *Ibid.* ¶ 74.

⁸²⁹ These jurisdictions include Albany, Baltimore, Cincinnati, Miami Dade County, the City of Miami Springs, Florida Montgomery County Alabama City and County, and the Seattle Human Rights Commission. *Ibid.* ¶ 75.

⁸³⁰ *Ibid.* ¶ 76.

⁸³¹ *Ibid.* ¶ 77.

work on the issue.”⁸³² Civil society organizations can engage with these rapporteurships by responding to questionnaires on particular topics, participating in country visits and hearings, and submitting written information after hearings. Groups can also encourage rapporteurships to speak out about particular human rights violations or to examine particular topics in hearings, questionnaires, and country visits.

Inter-American Commission Thematic Rapporteurships and Units (from oldest to newest)
Rapporteurship on the Rights of Indigenous Peoples
Rapporteurship on the Rights of Women
Rapporteurship on the Rights of Migrants
Special Rapporteurship for Freedom of Expression
Rapporteurship on the Rights of the Child
Rapporteurship on Human Rights Defenders
Rapporteurship on the Rights of Persons Deprived of Liberty
Rapporteurship on the Rights of Afro-Descendants and against Racial Discrimination
Rapporteurship on the Rights of Lesbian, Gay, Bisexual, Trans and Intersex Persons
Unit on Economic, Social and Cultural Rights ⁸³³
<p><i>Each rapporteurship’s contact information and website are available here:</i> http://www.oas.org/en/iachr/indigenous/default.asp</p> <p><i>All questionnaires are available here:</i> http://www.oas.org/en/iachr/reports/questionnaires.asp</p>

⁸³² Inter-American Commission on Human Rights, “Thematic Rapporteurships and Units,” accessed Dec. 9, 2013, <http://www.oas.org/en/iachr/mandate/rappoteurships.asp>.

⁸³³ Ibid.

The screenshot shows the OAS website interface. At the top, there is the OAS logo and the text 'Organization of American States' with the tagline 'Democracy for peace, security, and development'. A search bar and social media icons are also present. The navigation menu includes 'About the IACHR', 'Cases', 'Reports', 'Sessions & Hearings', 'Activities', 'Rapporteurships', and 'Media'. The 'Reports' menu is open, showing options like 'Annual Reports', 'Country Reports', 'Thematic Reports', 'Reports on Petitions and Cases', and 'Questionnaires'. The 'Questionnaires' link is highlighted. Below the navigation, the page title is 'Questionnaires'. The main content area features a section titled 'Questionnaire of Consultation for a Report on Violence against Lesbian, Gay, Trans, Bisexual and Intersex Persons in the Americas'. The text describes the purpose of the questionnaire and provides a deadline of November 25, 2013. It also includes four links: 'Questionnaire in Spanish', 'Questionnaire in English', 'Questionnaire in Portuguese', and 'Questionnaire in French'.

Most rapporteurships link to their questionnaires under the “reports” section of the rapporteurship’s website.

c. Hearings

During each session, the IACHR conducts public hearings on a variety of human rights issues at the regional and national level. These hearings “are one of the monitoring mechanisms the IACHR uses to keep itself informed about the human rights situation in the region, in fulfillment of its mandate.”⁸³⁴ The commission views hearings as “an essential tool to raise awareness about current subjects involving human rights situations in the member countries.”⁸³⁵ Most hearings do not involve the IACHR’s petition and case system, and the IACHR does not require exhaustion of domestic remedies in order to consider a human rights issue in the context of a hearing.⁸³⁶

⁸³⁴ Press Release, Inter-American Commission on Human Rights, Annex to the Press Release Issued at the Close of the 149th Session, No. 83A/13 (Nov. 8, 2013). Also available online at http://www.oas.org/en/iachr/media_center/PReleases/2013/083A.asp.

⁸³⁵ *Ibid.*

⁸³⁶ *Ibid.*

Individuals and civil society organizations may request topics for hearings and working meetings for upcoming IACHR sessions. The IACHR uses an online request form to receive these requests.

d. Country Visits

The IACHR, either as a whole or through one of its rapporteurships, often conducts country visits to investigate particular human rights issues. For example, in December 2013, the IACHR conducted a visit to the Dominican Republic “to analyze the human rights situation in the Dominican Republic regarding the rights to nationality, identity, equality,

and nondiscrimination, along with other related rights and issues.”⁸³⁷ The commission typically meets with a broad range of government representatives as well as civil society organizations. In many cases, the IACHR will also receive complaints as part of the visit.⁸³⁸ Interested individuals can learn about upcoming visits by monitoring the IACHR’s press releases: http://www.oas.org/en/iachr/media_center/PReleases/2013/095.asp. At the end of the country visit, the commission issues preliminary observations, including conclusions and recommendations, and it later publishes a report about its visit.⁸³⁹

Civil society groups can participate in the country visit process by encouraging the commission to visit a country, lobbying a country to invite the IACHR for a country visit, participating in civil society consultations during the visit, and submitting written information to the commission as it prepares its report on the visit.

ii. The Inter-American Court of Human Rights

The Inter-American Court of Human Rights (Inter-American Court) has judicial and advisory functions. For claims against countries, the Inter-American Court has jurisdiction only if the country’s government has elected to recognize the court’s “contentious jurisdiction”—either in a particular case or in general.⁸⁴⁰ Only the IACHR and State Parties to the American Convention may submit cases to the Inter-American Court.⁸⁴¹ They may do so only as part of the individual petition process, after the IACHR transmits its preliminary report to the country that is the subject of the communication. The IACHR may refer a case to the Inter-American Court only if it concludes that the government has not complied with the commission’s recommendations.⁸⁴²

⁸³⁷ Press Release, IACHR, IACHR Will Conduct On-Site Visit to the Dominican Republic, No. 95/13 (Nov. 27, 2013). Also available online at http://www.oas.org/en/iachr/media_center/PReleases/2013/095.asp.

⁸³⁸ *Ibid.*

⁸³⁹ Inter-American Commission on Human Rights, *Preliminary Observations from the IACHR’s Visit to the Dominican Republic*, Dec. 6, 2013, http://www.oas.org/en/iachr/media_center/PReleases/2013/097A.asp.

⁸⁴⁰ Organization of American States, “IACHR, Introduction,” *supra* note 809.

⁸⁴¹ Inter-American Commission on Human Rights (IACHR), *American Convention on Human Rights*, *supra* note 816, at Art. 61(1).

⁸⁴² IACHR, *Rules of Procedure of the Inter-American Commission on Human Rights*, *supra* note 819, Art. 44(3), Art. 45.

Countries that have Recognized the Inter-American Court's Contentious Jurisdiction ⁸⁴³	
Argentina	Guatemala
Barbados	Haiti
Bolivia	Honduras
Brazil	Mexico
Chile	Nicaragua
Colombia	Panama
Costa Rica	Paraguay
Dominican Republic	Peru
Ecuador	Suriname
El Salvador	Uruguay
Venezuela	

Even though individual petitioners cannot bring their cases directly to the Inter-American Court, they have an important, autonomous role to play in the court's proceedings. After a case has been submitted to the court, the alleged victims may submit their own brief, along with evidence and motions.⁸⁴⁴ Alleged victims can also participate in the court's public hearings.⁸⁴⁵ Victims may testify and present oral arguments,⁸⁴⁶ and the court may allow victims to make statements electronically.⁸⁴⁷ Victims may also question other victims, witnesses, and expert witnesses who give statements to the court.⁸⁴⁸ Under the court's rules, "States may not institute proceedings against witnesses, expert witnesses, or alleged victims, or their representatives or legal advisers, nor exert pressure on them or on their families on account of statements, opinions, or legal defenses presented to the Court."⁸⁴⁹

Individuals and civil society organizations may submit *amicus curiae* briefs to the Inter-American Court for consideration during contentious proceedings at any point up to 15 days after the public hearing in a case.⁸⁵⁰ They may also submit *amicus curiae* briefs when the court has proceedings on provisional measures and on monitoring compliance with judgments.⁸⁵¹ If the court does not hold a public hearing in a matter, *amicus curiae* briefs are due 15 days after the court issues an order setting deadlines for the submission of final arguments.⁸⁵²

⁸⁴³ <http://www.corteidh.or.cr/index.php/en/court-today/denuncias-consultas>.

⁸⁴⁴ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights, *supra* note 819, at Art. 25(1).

⁸⁴⁵ *Ibid.*, Art. 25(2).

⁸⁴⁶ *Ibid.*, Art. 51(6)–(7).

⁸⁴⁷ *Ibid.*, Art. 51(11).

⁸⁴⁸ *Ibid.*, Art. 52(2).

⁸⁴⁹ *Ibid.*, Art. 53.

⁸⁵⁰ *Ibid.*, Art. 44.

⁸⁵¹ *Ibid.*, Art. 44(4).

⁸⁵² *Ibid.*, Art. 44.

Provisional Measures

The Inter-American Court may adopt provisional measures “to avoid irreparable damage to persons” “[i]n cases of extreme gravity and urgency.”⁸⁵³ If such a case is not yet before the court, the IACHR may request that the court adopt provisional measures.⁸⁵⁴ If a case is before the court, victims may request provisional measures.⁸⁵⁵ When the court adopts provisional measures, it monitors whether the measures are implemented.⁸⁵⁶ Beneficiaries of provisional measures (such as victims) can submit their observations to the court about whether and how the government has implemented the measures.⁸⁵⁷

Any country that is a member of the OAS may seek an advisory opinion from the Inter-American Court.⁸⁵⁸ The Inter-American Court can issue advisory opinions about the meaning of the American Convention and other human rights treaties in the Inter-American system. It can also issue advisory opinions on domestic laws and whether they are consistent with the human rights standards in the Inter-American system.⁸⁵⁹

Inter-American Commission Refers case of the Kuna Indigenous People of Madungandí and Emberá Indigenous People of Bayano to the Inter-American Court

In 2013, the Inter-American Commission referred the case of the Kuna Indigenous People of Madungandí and Emberá Indigenous People of Bayano and their members against the State of Panama to the Inter-American Court. The State of Panama had failed to pay economic compensation to the indigenous peoples for the dispossession and flooding of their ancestral territories stretching back as far as 1969. The Inter-American Commission chose to refer the case to the Inter-American Court in order to push for compensation and to mandate that the State of Panama work to preserve the human rights of the indigenous groups, including by returning them to their ancestral lands.⁸⁶⁰



Flooding in a Kuna community in Panama

⁸⁵³ Inter-American Commission on Human Rights (IACHR), American Convention on Human Rights, *supra* note 816, at Art. 63(2).

⁸⁵⁴ *Ibid.*

⁸⁵⁵ IACHR, Rules of Procedure of the Inter-American Commission on Human Rights, 2009, *supra* note 819, at Art. 27(3).

⁸⁵⁶ *Ibid.*, Art. 27(7)–(8).

⁸⁵⁷ *Ibid.*, Art. 27(7).

⁸⁵⁸ Inter-American Commission on Human Rights, “Basic Documents in the Inter-American System,” accessed Jan. 9, 2014, <http://www.oas.org/en/iachr/mandate/Basics/intro.asp>; Inter-American Commission on Human Rights (IACHR), American Convention on Human Rights, *supra* note 816, Art. 64.

⁸⁵⁹ Inter-American Commission on Human Rights, “Basic Documents in the Inter-American System,” *supra* note 858.

⁸⁶⁰ Organization of American States, “IACHR Takes Case involving Panama to the Inter-American Court,” Apr. 4, 2013, http://www.oas.org/en/iachr/media_center/PReleases/2013/022.asp.

Strategic Advocacy at the Inter-American Court: Centro por la Justicia y el Derecho Internacional



Family members of the victims of the Cantuta Massacre march against impunity in 2011

The Center for Justice and International Law (CEJIL) works for the protection and promotion of human rights in the Americas by responding to human rights abuses committed by state officials, fighting impunity, reducing inequality and exclusion in the region through the right to equality and respect for human dignity, strengthening rule of law, democracy, civil society, and increasing the effectiveness of the Inter-American system and access to justice. CEJIL was founded in 1991 by a group of human rights defenders in Caracas, Venezuela. It now has offices in Buenos Aires, Argentina; Rio de Janeiro, Brazil; San Jose, Costa Rica, and Washington, D.C.

CEJIL currently represents, together with approximately 380 partner organizations, over 13,000 victims and beneficiaries in more than 200 cases before the Inter-American Commission of Human Rights and the Inter-American Court of Human Rights. CEJIL follows a “cooperative litigation model,” working on equal terms with human rights defenders and civil society organizations. For example, CEJIL, along with the Association for Human Rights and the Center for Studies and Action for Peace (CEAPAZ), took on a central role in re-opening a case concerning the Cantuta Massacre in Peru. In 1992, members of the military had massacred nine students and a professor at the National University “Enrique Guzman y Valle” in Peru. Two years later, a military court sentenced ten members of the military for their role in the massacre, but in 1995, the Peruvian Congress adopted an amnesty law freeing the people who had been sentenced. CEJIL took on the case on behalf of the families of three of the victims. In 2006, the Inter-American Court of Human Rights condemned Peru for these systematic arbitrary executions, and the court rendered Peru’s amnesty law invalid.

In its work to strengthen the Inter-American System, CEJIL monitors the implementation of the decisions of the Inter-American Commission and Court to ensure that victims receive proper reparations and that States enact structural changes to address systemic human rights violations. In 2008, CEJIL published a Best Practices Report on National Implementation of Decisions by the Inter-American System.⁸⁶¹

⁸⁶¹ CEJIL, “Publication,” accessed Jan. 9, 2013, <http://cejil.org/en/publicaciones/implementation-decisions-inter-american-human-rights-system-jurisprudence-regulations->.

Incorporating Research, Litigation, and Advocacy in the Inter-American System: Comisión Colombiana de Juristas

Comisión Colombiana de Juristas (Colombian Commission of Jurists) is a non-governmental organization of lawyers working to protect and promote human rights in Colombia and worldwide by supporting the development of international human rights and humanitarian law. Founded in 1998, the Colombian Commission of Jurists (CCJ) is based in Bogota, Colombia and is affiliated with the International Commission of Jurists and Andean Commission of Jurists. One CCJ program works to strengthen the rule of law in Colombia and to work for positive peace through human rights and transitional justice. Another CCJ program seeks to develop instruments of international law by working for human rights promotion in the Americas. CCJ focuses its efforts on the most vulnerable groups of people in Colombia, including Indigenous Peoples, Afro-Colombians, women, children, displaced persons, and peasants.



Camilo Mejía of the Comisión Colombiana de Juristas argues on behalf of a petitioner before the Inter-American Commission on Human Rights in 2012

CCJ undertakes research, litigation, and advocacy. CCJ researches human rights issues in Colombia, and CCJ maintains a database of human rights violations. CCJ then uses these data to write reports to the Inter-American Commission, UN human rights mechanisms, and the International Criminal Court, among others. CCJ represents victims before both national and international courts, including the Inter-American Commission and the Inter-American Court. CCJ focuses its advocacy efforts on influencing the Colombian Congress and Constitutional court. It also urges the Colombian Government to adopt human rights bodies' recommendations. In 1996, CCJ pressed for the enactment of Law 288, which requires that the Government of Colombia treat all of the Inter-American Commission's recommendations in individual cases as mandatory.

C. The African System



The African human rights system is the “youngest” regional system. One distinctive feature of this system is its recognition of collective, or “peoples” rights. It views individual and peoples’ rights as linked.⁸⁶² Another distinctive feature of the African system is the recognition of the right to development.

The relevant human rights treaties for the African system are:

⁸⁶² United Nations: Enable, “International Norms and Standards Relating to Persons with Disabilities, Part III. The Regional Human Rights System,” accessed Oct. 2013, <http://www.un.org/esa/socdev/enable/comp303.htm>.

- Organization of African Unity Convention Governing Specific Aspects of Refugee Problems in Africa (1969)⁸⁶³
- African Charter on Human and Peoples' Rights (1981)⁸⁶⁴
- African Charter on the Rights and Welfare of the Child (1990)⁸⁶⁵
- Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (1998)⁸⁶⁶
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003)⁸⁶⁷
- 2011 African Charter on Democracy, Elections and Governance (2011)⁸⁶⁸

i. The African Commission on Human and Peoples' Rights

The African Commission on Human and Peoples' Rights (ACHPR, African Commission) is the primary human rights monitoring mechanism of the African Charter on Human and Peoples' Rights.⁸⁶⁹ The commission is based in Banjul, The Gambia, and consists of 11 commissioners elected by the African Union assembly for six-year renewable terms.⁸⁷⁰ The ACHPR serves many functions, including:

- Deciding whether alleged human rights abuses violate the African Charter;
- Making recommendations to governments about promoting and protecting human rights and addressing past violations;
- Organizing seminars and conferences;
- Conducting country promotional visits;
- Disseminating reports on various human rights issues;
- Interpreting the African Charter; and
- Investigating human rights violations through fact-finding missions.

Civil society plays a pivotal role in the activities of the commission and can engage with the commission in a range of ways to further advocate on issues of concern:⁸⁷¹

- Alert the commission to violations of the African Charter;
- Submit communications/complaints on behalf of individuals whose rights have been violated;
- Monitor governments' compliance their obligations under the African Charter and other human rights treaties;
- Attend the commission's public sessions;
- Submit shadow reports as part of the periodic reporting process;
- Publicize and conduct advocacy about the commission's concluding observations; and
- Increase awareness about the commission's activities.

⁸⁶³ ACHPR, "AU Convention Governing Specific Aspects of Refugee Problems in Africa," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/refugee-convention/>.

⁸⁶⁴ ACHPR, "African Charter on Human and Peoples' Rights," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/achpr/>.

⁸⁶⁵ ACHPR, "African Charter on the Rights and Welfare of the Child," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/child/>.

⁸⁶⁶ ACHPR, "Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/court-establishment/>.

⁸⁶⁷ ACHPR, "Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/women-protocol/>.

⁸⁶⁸ ACHPR, "African Charter on Democracy, Elections and Governance," accessed Jan. 9, 2014, <http://www.achpr.org/instruments/charter-democracy/>.

⁸⁶⁹ Malcolm Evans and Rachel Murray, *The African Charter on Human and Peoples' Rights: The System in Practice 1986–2006*, (Cambridge University Press, 2008).

⁸⁷⁰ African Commission on Human and Peoples' Rights, "History," accessed Oct. 2013, <http://www.achpr.org/about/history/>.

⁸⁷¹ African Commission on Human and Peoples' Rights, "Network," accessed Oct. 2013, <http://www.achpr.org/network/>.

Periodic Reporting Process

The African Commission's periodic reporting process presents an important opportunity for a government to evaluate what has been achieved and what more needs to be done to advance human rights in the country. All countries that have adopted the African Charter (all African countries except Morocco) must submit periodic reports to the commission about the government's measures to implement and comply with the provisions of the African Charter.⁸⁷² The African Commission states that these reports act as the "most effective means by which the commission can ensure the promotion and protection of human and peoples' rights."⁸⁷³ The goal of the reporting system is to establish a framework for constructive dialogue between the commission and the governments of countries that are members of the African Union.⁸⁷⁴ The commission publishes the government reports on its website, engaging and educating the public about human rights practices in these countries.

After a government submits its periodic report, the commission schedules an in-person review for an upcoming session. At this time, civil society, including "institutions, organizations or any interested party," may contribute to the African Commission's examination of the report and the human rights situation in the country by submitting "shadow reports."⁸⁷⁵ Shadow reports often identify omissions and discrepancies in the government reports, and they shed more light on the realities on the ground. Shadow reports are typically due 60 days before the first day of the session. Civil society groups also lobby the commissioners to encourage them to raise certain concerns during the in-person review.

The commission considers government reports during a public meeting. This consideration takes the form of a dialogue between official representatives of the country under review and the commissioners.⁸⁷⁶ After the in-person dialogue, the commissioners meet in a closed session to decide on comments and recommendations for the government of the country under review. The African Commission then issues concluding observations and recommendations, which it publishes on its website.⁸⁷⁷

How to submit a shadow report to the African Commission

The African Commission does not require any particular format for shadow reports, but organizations should include the country's name, the organization's name and the session number and dates at the top of the first page. To view the schedule and other guidance for participating in sessions, please visit:

<http://www.achpr.org/sessions/>.

It may be useful to structure the report by the relevant rights enumerated in the African Charter on Human and Peoples' Rights. Shadow reports should make reference to the government's report, or to the lack of a government report, and should comment on any relevant information provided in the government report.⁸⁷⁸

Government reports are available here: <http://www.achpr.org/states/reports-and-concluding-observations/>.

⁸⁷² African Commission on Human and Peoples' Rights, "Home," accessed Oct. 2013, <http://www.achpr.org/>.

⁸⁷³ African Commission on Human and Peoples' Rights, "Reporting Procedures," accessed Oct. 2013, <http://www.achpr.org/states/reporting-procedure/>.

⁸⁷⁴ Ibid.

⁸⁷⁵ African Commission on Human and Peoples' Rights, "Network," accessed Oct. 2013, <http://www.achpr.org/network/>.

⁸⁷⁶ African Commission on Human and Peoples' Rights, "African Commission on Human and Peoples' Rights: State Reporting Procedure," in *A Conscientious Objector's Guide to the International Human Rights System*, accessed Oct. 2013, <http://co-guide.org/mechanism/african-commission-human-and-peoples-rights-state-reporting-procedure>.

⁸⁷⁷ African Commission on Human and Peoples' Rights, Rules of Procedure of the African Commission on Human and Peoples' Rights, 2010, Rule 77(3). Available online at http://www.achpr.org/files/instruments/rules-of-procedure-2010/rules_of_procedure_2010_en.pdf.

⁸⁷⁸ African Commission on Human and Peoples' Rights, "African Commission on Human and Peoples' Rights: State Reporting Procedure," *supra* note 876.

Advocates may also want to include suggested recommendations and questions in their shadow reports. These recommendations and questions can assist the ACHPR's Commissioners as they prepare for the in-person dialogue, and as they draft their concluding observations and recommendations.⁸⁷⁹

Reports are due two months before the session when the Commission conducts its in-person review of the government's report. For further guidance on how to submit a shadow report, please see Appendix M, "10 steps to Writing a Shadow Report," and Appendix P, a shadow report template for the African Commission.

Resources on Shadow Reporting to the African Commission

ACHPR: Rules of Procedure of the African Commission on Human and Peoples' Rights

http://www.achpr.org/files/instruments/rules-of-procedure-2010/rules_of_procedure_2010_en.pdf

ACHPR: Information Sheet No 4: State Reporting Procedure

http://old.achpr.org/english/information_sheets/ACHPR%20inf.%20sheet%20No.4.doc

Road map for civil society engagement: State reporting procedure of the ACHPR

http://www.conectas.org/arquivos/Conectas_Roadmap_AfricanCommission_ENG.pdf

Sample NGO Shadow Report Submissions to the African Commission:

- FIDH: Shadow Report on Ethiopia: <http://www.fidh.org/IMG/pdf/HRsituationEthiopie.pdf>
- Media Institute of South Africa, The Program of International Human Rights Law of Indiana University: Shadow Report on Zambia: <http://indylaw.indiana.edu/humanrights/shadowreports/Zambia%20Press%20Freedom.pdf>
- Amnesty International, Human Rights Watch, International Bar Association and Redress: Shadow Report on Zimbabwe: <http://www.amnesty.org/en/library/info/AFR46/016/2007>

Civil society groups may send shadow reports directly to the African Commission Secretariat:

The African Commission on Human and Peoples' Rights

31 Bijilo Annex Layout, Kombo North District, Western Region

P.O. Box 673

Banjul, The Gambia

Email: au-banjul@africa-union.org

Other advocacy opportunities during the periodic reporting process

Effective civil society organizations do more than simply submit shadow reports to the African Commission. They also engage with the African Commission before, during, and after the commission's consideration of a government report. Individual commissioners are assigned to particular countries and particular human rights working groups and rapporteurships; advocates should identify the relevant commissioners and try to forge collaborative relationships with them throughout the process. The commissioner responsible for promotional activities in a particular country is also usually the rapporteur to lead the commission's discussion of the government's report.⁸⁸⁰

⁸⁷⁹ International Working Group for Indigenous Affairs, "ACHPR Sessions," accessed Oct. 2013, <http://www.iwgia.org/human-rights/regional-bodies-and-mechanisms/african-commission-on-human-and-peoples-rights/achpr-sessions>.

⁸⁸⁰ African Commission on Human and Peoples' Rights, "African Commission on Human and Peoples' Rights: State Reporting Procedure," *supra* note 876.

African Commissioners and their Country and Other Assignments (as of 2014)

Commissioner	Countries	Other Assignments
Faith Pansy Tlakula	Lesotho Mauritius Namibia Sierra Leone South Sudan Swaziland	<ul style="list-style-type: none"> • Special Rapporteur on Freedom of Expression and Access to Information • Working Group on Rights of Older Persons and People with Disabilities • Working Group on Specific Issues Related to the work of the African Commission (chairperson)
Lawrence Murugu Mute	Ethiopia Gambia Liberia Sudan	<ul style="list-style-type: none"> • Committee for the Prevention of Torture in Africa (chairperson) • Working Group on Rights of Older Persons and People with Disabilities • Working Group on Extractive Industries, Environment and Human Rights Violations
Lucy Asuagbor	Malawi Nigeria Rwanda Uganda Zimbabwe	<ul style="list-style-type: none"> • Committee for the Prevention of Torture in Africa • Working Group on Communications (chairperson) • Working Group on Specific Issues Related to the work of the African Commission • Working Group on Indigenous Populations/Communities in Africa • Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV (chairperson)
Maya Sahli Fadel	Burkina Faso Egypt Guinea Senegal Tunisia	<ul style="list-style-type: none"> • Working Group on Economic, Social and Cultural Rights • Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons • Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa
Med S.K. Kaggwa	Botswana Eritrea Somalia South Africa Zambia	<ul style="list-style-type: none"> • Special Rapporteur on Prisons and Conditions of Detention • Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa • Committee for the Prevention of Torture in Africa • Advisory Committee on Budgetary and Staff Matters (chairperson) • Working Group on Specific Issues Related to the work of the African Commission
Mohamed Bechir Khalfallah	Central African Republic Chad Mauritania Sahrawi Arab Democratic Republic	<ul style="list-style-type: none"> • Advisory Committee on Budgetary and Staff Matters • Working Group on Economic, Social and Cultural Rights (chairperson)
Pacifique Manirakiza	Benin Guinea-Bissau Kenya Mozambique Tanzania	<ul style="list-style-type: none"> • Working Group on Extractive Industries, Environment and Human Rights Violations (chairperson) • Working Group on Communications • Working Group on Indigenous Populations/Communities in Africa

Commissioner	Countries	Other Assignments
Reine Alapini-Gansou	Cameroon Cape Verde Democratic Republic of the Congo Mali Togo	<ul style="list-style-type: none"> Working Group on Rights of Older Persons and People with Disabilities Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV Working Group on Communications Advisory Committee on Budgetary and Staff Matters Special Rapporteur on Human Rights Defenders
Soyata Maiga	Angola Congo Equatorial Guinea Libya Niger	<ul style="list-style-type: none"> Working Group on Specific Issues Related to the work of the African Commission Committee on the Protection of the Rights of People Living With HIV (PLHIV) and Those at Risk, Vulnerable to and Affected by HIV Working Group on Indigenous Populations/Communities in Africa (chairperson) Advisory Committee on Budgetary and Staff Matters Working Group on Economic, Social and Cultural Rights Working Group on Indigenous Populations/Communities in Africa (chairperson) Special Rapporteur on Rights of Women
Yeung Kam John Yeung Sik Yuen	Comoros Ghana Madagascar Sao Tome and Principe Seychelles	<ul style="list-style-type: none"> Working Group on Rights of Older Persons and People with Disabilities (chairperson) Working Group on Communications Working Group on Extractive Industries, Environment and Human Rights Violations
Zainabo Sylvie Kayitesi	Algeria Burundi Côte d'Ivoire Djibouti Gabon	<ul style="list-style-type: none"> Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa (chairperson) Working Group on Extractive Industries, Environment and Human Rights Violations
<p><i>Updated assignments and contact information for the individual commissioners are available here: http://www.achpr.org/about/ (last visited Jan. 31, 2014).</i></p>		

NGOs with observer status may make comments on a particular government report by speaking on other agenda items during the same session. Many issues can be addressed as part of either the agenda item on the general situation of human rights in Africa or one of the thematic agenda items.

The African Commission's concluding observations serve as the official record of the commission's stance on the human rights situation in the country under review.⁸⁸¹ The concluding observations can therefore be effective advocacy tools for lobbying activities and awareness-raising. Groups can also share other public reports of the commission, including as mission reports, communiqués on sessions, and press releases from special rapporteurs. The ACHPR makes these reports available on its website here: <http://www.achpr.org/search/>.

⁸⁸¹ International Working Group for Indigenous Affairs, "ACHPR Sessions," *supra* note 879.

Organizations should also monitor the government's compliance with the commission's recommendations and resolutions, and they should share their findings with media and civil society partners.⁸⁸²

Public sessions

The Commission holds two ordinary sessions and at least one extraordinary session each year. Each ordinary session lasts approximately two weeks.⁸⁸³ As discussed above, NGOs with observer status may speak during the African Commission's public sessions. The commission posts an invitation and an agenda on its website at least four weeks before each session. To view the schedule, past records, and other guidance for participating in sessions, please visit: <http://www.achpr.org/sessions/>.

Interventions

NGOs with observer status may participate in and speak during the public discussion portions of a session. NGOs that do not have observer status may attend the ordinary session but do not have the right to speak.⁸⁸⁴ NGOs with observer status must register to attend a session by submitting a registration form, available on the African Commission's website.⁸⁸⁵

Civil society organizations with observer status are allowed to make one intervention, or statement, per agenda item, and they usually have three to five minutes to speak. NGOs most frequently comment on two agenda items: (1) the human rights situation in Africa; and (2) the presentation of reports from special rapporteurs or working groups. These types of agenda items are sufficiently broad to encompass most of the specific concerns and issues that NGOs bring to the session.⁸⁸⁶

At the beginning of the session, NGOs should notify the Secretariat that they wish to take the floor to speak on particular agenda items.⁸⁸⁷ Organizations may wish to provide commissioners, the Secretariat, and other participants with written copies of their oral statements. Ideally, organizations should make their statements available in more than one language, as some officials are not fluent in all of the official languages of the commission. In addition, government delegations in attendance can exercise their right of reply to present their position.

Organizations are not permitted, however, to make statements on agenda items concerning a country's periodic report, a country's compliance with the African Charter, or the commission's decisions on granting observer status to other organizations.⁸⁸⁸ It is therefore important for organizations to lobby commissioners so that they will ask specific questions of the government delegations when they present their reports. Civil society organizations may also wish to provide commissioners with supplemental written information to help them assess the government report.

Observer Status

For information on how to apply for observer status with the African Commission, see Chapter 11, Part C(2). For information about the benefits of observer status, visit:

<http://www.pijip-impact.org/wp-content/uploads/2012/04/OBTAINING-AND-THE-BENEFITS-OF-OBSERVER-STATUS.pdf>

⁸⁸² IFEX, "Guide to the ACHPR," accessed Oct. 2013, http://www.ifex.org/campaigns/african_commission/.

⁸⁸³ ACHPR, Rules of Procedure of the African Commission on Human and Peoples' Rights, *supra* note 877, Rules 25(1), 26(1).

⁸⁸⁴ African Commission on Human and Peoples' Rights, "Sessions," accessed Oct. 2013, <http://www.achpr.org/sessions/>.

⁸⁸⁵ ACHPR, "52nd Ordinary Session of the African Commission on Human and Peoples' Rights (ACHPR)," accessed Jan. 9, 2014, http://www.achpr.org/files/sessions/52nd/info/information-for-participants/achpr52_partinf_2012_eng.pdf. (A detailed description of the information provided to participants is available online.)

⁸⁸⁶ IFEX, "Guide to the ACHPR," *supra* note 882.

⁸⁸⁷ *Ibid.*

⁸⁸⁸ *Ibid.*

Parallel events and other activities

During sessions, organizations also host side events, such as seminars, training sessions, and presentations by human rights defenders, on particular human rights themes.⁸⁸⁹ Groups may wish to invite Commissioners and government officials to these events. In addition, an organization's representatives can informally approach government delegates and Commissioners during breaks to highlight particular concerns and share information.

NGO Forum

For three days before each ordinary session of the African Commission, the African Center for Democracy and Human Rights Studies hosts an NGO Forum for civil society organizations planning to participate in the upcoming session. Participants may attend planning meetings, training workshops, and other activities during the forum. Sometimes the NGO Forum will adopt resolutions and forward them to the commission for consideration. A representative from the NGO Forum delivers an oral statement and a written report to the African Commission at the beginning of each ordinary session. For more information about the NGO Forum, visit: www.acdhrs.org/.

Communications Procedure

The African Commission is empowered to receive and consider complaints or "communications." States, individuals, and other organizations may submit communications alleging that a country that is a party to the African Charter on Human and Peoples' Rights has violated one or more of the rights identified in the charter. NGOs do not need observer status to submit a communication. The communications procedure is judicial in nature and leads to a definitive declaration of whether a government has violated the African Charter. Between 1988 and 2012, the African Commission received over 400 communications and issued approximately 200 decisions.

Steps in the communications process

Step 1: Seizure.

When the African Commission receives a communication, it must first decide whether the incidents described in the submission could constitute a violation of the African Charter and whether the communication satisfies the admissibility requirements. Seven or more commissioners must indicate they are "seized" with the communication, meaning they believe it satisfies the seven requirements of Section 56 of the African Charter. For detailed guidance on these requirements, please see the text box "Checklist for Submitting a Communication to the African Commission."

Step 2: Government notification and response.

After the commission "seizes," or deems admissible, a communication, the Secretary notifies the government concerned and the author of the communication. The Secretary asks the government to make a written submission, within three months, explaining its position on the issues and, if possible, describing measures it has taken to remedy the situation. Within a time period decided upon by the commission, the complainant has an opportunity to respond to the government's submission and, if necessary, provide additional information. The commission then either seeks to obtain a friendly settlement or decides the merits of the case.⁸⁹⁰

⁸⁸⁹ Ibid.

⁸⁹⁰ Ibid.

Step 3: Friendly settlement.

If both parties are willing to settle the matter amicably, the commission will mediate a “friendly settlement” between the complainant or victim and the government.⁸⁹¹ If the parties reach an amicable resolution, the terms of the settlement are communicated to the commission at the next session. The commission’s consideration of the case then automatically ends.⁸⁹²

Step 4: Consideration of the merits.

If the parties do not reach a friendly settlement, the commissioners consider the communication in a private meeting during an ordinary session. When the African Commission considers a communication, both parties have the opportunity to make written and oral presentations.⁸⁹³ Some governments send a representative to the session to refute allegations made against them.⁸⁹⁴ NGOs may also have the opportunity to make oral presentations. It is not necessary, however, for parties to make oral presentations or to be present at the session; written submissions are sufficient. After the written and oral submissions are complete, the Secretariat of the African Commission prepares a draft decision on the merits taking into account all the facts at its disposal. This draft decision is meant to guide the commissioners in their deliberations.⁸⁹⁵

Step 5: Recommendations.

The African Commission then decides whether the government at issue has violated the African Charter. If it finds a violation, it will make recommendations to the government concerned. These recommendations may explain what the government should do to provide redress to the victim, to investigate and prosecute the perpetrators of the violation, or to prevent such abuses from occurring in the future. The African Commission includes these recommendations in its Annual Activity Reports to the African Union’s Assembly of Heads of State and Government. If adopted, they become binding on the government under consideration and are published.⁸⁹⁶

Step 6: Additional steps.

The African Commission may take additional steps in response to urgent allegations of imminent or ongoing abuse, such as an imminent execution. Under its provisional measures, it can request that a government stay proceedings or refrain from acting if the commission has reason to think the violation in question could cause irreparable harm or prejudice. In similar circumstances, but where no communication is before the commission, the commission has sent an urgent appeal to relevant government officials requesting that they cease an alleged violation against a victim.⁸⁹⁷

If a government fails to comply with the commission’s recommendations, the commission can also refer the communication to the African Court on Human and Peoples’ Rights.⁸⁹⁸ Referral is appropriate if the case involves serious and massive violations, non-implementation of the commission’s decision or request for provisional measures, or if there are other circumstances the commission determines warrant intervention from the court.

⁸⁹¹ African Commission on Human and Peoples’ Rights, “Procedure,” accessed Oct. 2013, <http://www.achpr.org/communications/procedure/>.

⁸⁹² IFEX, “Guide to the ACHPR,” *supra* note 882.

⁸⁹³ *Ibid.*

⁸⁹⁴ African Commission on Human and Peoples’ Rights, “African Commission on Human and Peoples’ Rights: State Reporting Procedure,” *supra* note 876.

⁸⁹⁵ African Commission on Human and Peoples’ Rights, “Procedure,” accessed Oct. 2013, <http://www.achpr.org/communications/procedure/>.

⁸⁹⁶ University of MN Human Rights Library, “The African Commission on Human and Peoples’ Rights Information Sheet No. 3,” accessed Oct. 2013, <http://www1.umn.edu/humanrts/africa/achpr-infosheet3.html>.

⁸⁹⁷ IHRDA and ISHR, “A Human Rights Defender’s Guide to the African Commission on Human and Peoples’ Rights,” 28 (Banjul: IHRDA and Geneva: ISHR, 2012). Also available online at http://www.ishr.ch/sites/default/files/article/files/isshr-ihirda_hrds_guide_2012-1.pdf.

⁸⁹⁸ *Ibid.*

How to submit a communication to the African Commission

Seven requirements for submitting a communication to the African Commission⁸⁹⁹

To be admissible, the communication must satisfy seven criteria:

- 1. Provide the author's name, even if the author requests anonymity.**
 - The communication should stipulate whether it is from a victim, an individual acting on the behalf of the victim, or a human rights organization.
 - The communication must include contact information for the individual or the organization's representatives.
 - An individual submitting a communication must provide his or her name, address, age, and profession. If the individual wishes to remain anonymous, he or she must expressly request anonymity.
- 2. Specify the provisions of the African Charter alleged to be violated.**
 - The communication must be brought against a State Party to the African Charter.
 - The communication must clearly identify the right(s) in the African Charter that the government has violated.
 - The communication may also highlight violations of additional principles adopted by the Commission, if relevant. The commission's declarations are available here: http://www.achpr.org/english/_info/index_declarations_en.html.
 - The communication must provide evidence to support the allegations of rights violations.
 - The violation must have occurred after the country ratified the African Charter. Dates of ratification are available here: http://www.achpr.org/english/ratifications/ratification_african%20charter.pdf.
- 3. Avoid disparaging or insulting language.**
 - Insulting language will render a communication inadmissible, regardless of the seriousness of the allegations.
- 4. Rely on first-hand information.**
 - The communication should rely, at least in part, on primary sources of information, such as personal accounts, witness statements, or government documents. Some information in the communication may be based on news disseminated through the mass media.
 - Communications based exclusively on news disseminated by the mass media are inadmissible.
- 5. Describe efforts to exhaust domestic remedies.**
 - The communication must provide evidence of efforts to exhaust domestic remedies. Such evidence could include judgments of the competent courts in the country, including the highest court.
 - If the author of the communication has not exhausted domestic remedies, the author must explain why. See "Practitioner's tip: Three criteria for determining whether a domestic remedy is required."
- 6. Be timely.**
 - The African Commission has determined that communications should usually be submitted no later than six months after exhaustion of domestic remedies.
 - The African Commission may consider a communication submitted later if the communication includes a compelling reason for the delay.
- 7. Not request reexamination of a case that has been decided on the merits.**
 - The African Commission will not take a case that has already reached a final settlement on the

⁸⁹⁹ IFEX, "Guide to Submitting a Complaint to the ACHPR," accessed Oct. 2013, http://ifex.org/campaigns/african_commission/index1.php.

merits in accordance with the principles of the African Charter or the UN Charter.

- The African Commission may consider a case that has already been examined, so long as no action was taken and no pronouncements were made on the merits of the case.

Practitioner's tip: Three criteria for determining whether a domestic remedy is required⁹⁰⁰

The remedy must be:

- Available - the applicant can pursue a remedy without impediments;
- Effective - the remedy offers a prospect of success;
- Sufficient - the remedy could redress the complaint.

A remedy is insufficient if:

- The applicant cannot turn to the judiciary of their country because the applicant has a generalized fear for his or her life;
- The remedy depends on extrajudicial considerations, such as discretion or some extraordinary power vested in an executive official; or
- The violation took place in the context of massive violations of human rights and the government took no steps to prevent or stop the violations.

In addition to the seven admissibility criteria, the communication may include a request that the African Commission adopt interim or provisional measures. These measures are steps that the commission can take before it considers the merits in order to prevent irreparable harm to a victim.⁹⁰¹ For example, an NGO might request that the commission ask the government not to execute the alleged victim until the commission has an opportunity to consider the communication.

In cases of mass human rights violations, organizations should collaborate to submit multiple communications. The African Union Assembly is more likely to call for an investigation if the African Commission presents multiple communications addressing the same set of serious human rights violations.⁹⁰²

Resources for Submitting a Communication to the African Commission

ACHPR: Rules of Procedure of the African Commission on Human and Peoples' Rights

http://www.achpr.org/files/instruments/rules-of-procedure-2010/rules_of_procedure_2010_en.pdf

ACHPR: Information Sheet No. 3: Guidelines for Submission of Communications

http://www.achpr.org/files/pages/communications/guidelines/achpr_infosheet_communications_eng.pdf

ACHPR: Information Sheet No. 3: Communication Procedure

<http://www1.umn.edu/humanrts/africa/achpr-infosheet3.html>

A Human Rights Defenders' Guide to the African Commission, "Part II: Protection of Human Rights Defenders by the African Commission."

by Institute for Human Rights and Development in Africa (IHRDA) /International Service for Human Rights

⁹⁰⁰ Ibid.

⁹⁰¹ IFEX, "Guide to the ACHPR," *supra* note 882.

⁹⁰² IFEX, "Guide to Submitting a Complaint to the ACHPR," *supra* note 899.

(ISHR) http://www.ishr.ch/sites/default/files/article/files/ishr-ihda_hrds_guide_2012-1.pdf

Special mechanisms

The African Commission creates subsidiary or “special” mechanisms such as special rapporteurs, committees, and working groups in response to specific human rights concerns. Most special mechanisms are mandated to promote specific areas of human rights, to make recommendations, to disseminate information, and to carry out research in their areas of focus. The commission determines the mandate and the terms of reference for each special mechanism. At each ordinary session, each special mechanism presents a report on its work.⁹⁰³

Current Special Mechanisms of the African Commission	
Special Rapporteurs:	Working Groups and Committees:
Human Rights Defenders	Economic, Social and Cultural Rights
Freedom of Expression and Access to Information	Death Penalty and Extra-Judicial, Summary, or Arbitrary Killings in Africa
Rights of Women	Indigenous Populations / Communities in Africa
Prisons and Conditions of Detention	Rights of Older Persons and People with Disabilities
Refugees, Asylum Seekers, Migrants, and Internally Displaced Persons	Extractive Industries, Environment, and Human Rights Violations
	Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to, and Affected by HIV
	Prevention of Torture in Africa

More information on each of these mechanisms (including mandate, mission reports, press releases, and relevant resolutions) is available here: <http://www.achpr.org/mechanisms/>. See Appendix K for contact information.

Special mechanisms receive information about violations in their areas of concern, publish urgent appeals and press releases on specific human rights violations, conduct official fact-finding missions to evaluate the human rights situation in a particular country, and make recommendations on how governments can improve human rights in their specific area of concern. Working groups are primarily mandated to develop guidelines on the protection of specific rights. Those guidelines may later serve as the basis for draft conventions and protocols.⁹⁰⁴

Special rapporteurs and working groups often conduct fact-finding missions. The commission does not need permission to conduct fact-finding or investigative missions, as long as either the AU General Assembly, the AU Chairperson, or the AU Peace and Security Council approves the mission. During investigative visits, the special

⁹⁰³ ACHPR, “Special Mechanisms,” accessed Oct. 2013, <http://www.achpr.org/mechanisms/>.

⁹⁰⁴ International Federation for Human Rights – FIDH, *Practical Guide - The African Court on Human and Peoples’ Rights* (Paris: FIDH, April 2010), 25. Also available online at http://www.fidh.org/IMG/pdf/african_court_guide.pdf.

mechanism members try to meet with government officials, police authorities, NGOs, and the country's national human rights institutions. They may also visit prisons, refugee camps, and other sites.⁹⁰⁵

Following a promotional or investigative trip, the special mechanism submits a "mission report" for adoption by the African Commission in a private meeting. As part of the process, the commission sends the draft report to the government concerned for its observations and input before the commission publishes the report. This procedure can sometimes delay the publication process further. Once the commission adopts a mission report, it publishes and posts it on its website. The African Commission is currently working on adapting procedures so that it can release mission reports in a timelier manner.⁹⁰⁶

How to engage with special mechanisms

Call for and assist with fact-finding missions.

Civil society organizations can encourage special mechanisms to conduct fact-finding missions and country visits by addressing requests to the Chairperson or Secretary of the Commission or directly to the special rapporteur or working group that would be likely to conduct such a mission.⁹⁰⁷ If the special mechanism decides to undertake a mission, NGOs can bolster the special mechanism's work by providing information, reports, and advice on places to visit and people to contact ahead of the visit. NGOs can also assist by raising awareness about country visits with local NGOs, media, and relevant stakeholders.

Provide information on human rights abuses.

The special mechanisms receive and respond to information on human rights developments, both negative and positive.⁹⁰⁸ Civil society can provide valuable information to the special rapporteurs and working groups about human rights situations on the ground or about specific violations of rights. Groups can present this information to the special mechanisms in the form of research reports, press releases, studies, or informational letters.

Submit cases of alleged human rights violations.

Organizations can submit cases directly to special rapporteurs, who may decide to take up such cases directly with the relevant government. Special rapporteurs may request that the government respond to the allegations, or may issue a press release on a specific human rights violation. This process can be effective in prompting government action directly and through international pressure.⁹⁰⁹

Use mission reports and press releases in advocacy.

Press releases and mission reports from special rapporteurs and working groups provide strong advocacy materials for organizations. Advocates can further publicize these reports and press releases to influence public opinion and to push for government reforms. Mission reports also contain authoritative recommendations by the Commissioners to the country concerned. Organizations can use these recommendations to support their own work by disseminating them locally and internationally and by monitoring the steps the government takes to comply with them.⁹¹⁰

⁹⁰⁵ IFEX, "Guide to the ACHPR," *supra* note 882.

⁹⁰⁶ *Ibid.*

⁹⁰⁷ *Ibid.*

⁹⁰⁸ IHRDA and ISHR, "A Human Rights Defender's Guide to the African Commission on Human and Peoples' Rights," *supra* note 897, at 34.

⁹⁰⁹ Amnesty International, *A Guide to the African Commission on Human and Peoples Rights* (London: Amnesty International, 2007), 32. Also available online at <http://www.amnesty.org/en/library/asset/IOR63/005/2007/en/6796e85a-d36a-11dd-a329-2f46302a8cc6/ior630052007en.pdf>.

⁹¹⁰ *Ibid.*, 28.

Partner with the special mechanism in the promotion of human rights.

Organizations can invite the special mechanisms to take part in studies, conferences, seminars, and workshops. Special mechanisms often undertake joint projects with NGOs working in relevant areas.⁹¹¹

ii. The African Court on Human and Peoples' Rights



The African Court on Human and Peoples' Rights (African Court) is the main judicial body charged with human rights protection in Africa.⁹¹² Created by a protocol to the African Charter,⁹¹³ the court is located in Arusha, Tanzania, and is designed to “complement the protective mandate of the African Commission on Human and Peoples' Rights.”⁹¹⁴ The court delivered its first ruling in 2009 and has since decided 13 cases.⁹¹⁵

Unlike the African Commission, the African Court can issue binding and enforceable decisions in cases. The government is thereby obliged to remedy the human rights violation, in accordance with the judgment, including by paying compensation to the victim.⁹¹⁶

In some circumstances, individuals and civil society organizations may bring cases to the African Court. The following entities can take cases before the court:

- The African Commission on Human and Peoples' Rights⁹¹⁷
- Governments of countries that are complainants or respondents to a communication before the African Commission⁹¹⁸
- Governments that have an interest in a case⁹¹⁹
- African inter-governmental organizations⁹²⁰
- Non-governmental organizations with observer status at the African Commission and ordinary individuals, if the government against which the case is brought has made a declaration giving the court jurisdiction over cases brought by individuals and non-governmental organizations.⁹²¹

⁹¹¹ *Ibid.*, 32–33.

⁹¹² IHRDA and ISHR, “A Human Rights Defender’s Guide to the African Commission on Human and Peoples’ Rights,” *supra* note 897, at 23.

⁹¹³ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, 2004, Art. 3(1). Also available online at <http://www.african-court.org/en/images/documents/Court/Court%20Establishment/africancourt-humanrights.pdf>; African Court on Human and Peoples’ Rights, Rules of Court, 2010, Rule 26(1)(a). Available online at <http://www.african-court.org/en/index.php/documents-legal-instruments>.

⁹¹⁴ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 2.

⁹¹⁵ African Court on Human and Peoples’ Rights, “Quick Facts,” accessed Jan. 9, 2014, <http://www.african-court.org/en/index.php/about-the-court/quick-facts-menu>.

⁹¹⁶ Amnesty International, *A Guide to the African Commission on Human and Peoples’ Rights*, *supra* note 909, at 42.

⁹¹⁷ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(a).

⁹¹⁸ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(b).

⁹¹⁹ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(c).

⁹²⁰ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(e).

⁹²¹ ACHPR, Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights, *supra* note 913, Art. 5(1); African Court on Human and Peoples’ Rights, Rules of Court, *supra* note 913, Rule 33(1)(c).

If NGOs and individuals do not have direct access, they may use the African Commission's communication procedure to introduce their case. If the government does not comply with the commission's recommendations, the author of the communication may request that the commission refer the case to the African Court.

Proceedings in the African Court

When the African Court receives a case brought by an individual or an NGO, it first examines it to determine whether it is admissible and whether the court has jurisdiction. At this stage, if the case involves an emergency or extreme seriousness, the court may request that the government at issue undertake provisional protective measures.⁹²⁴ The court may also request that the parties submit additional "factual information or other material considered by the Court to be relevant" in order to decide jurisdiction and admissibility.⁹²⁵ The Rules of the Court do not establish any deadlines for the court to complete its admissibility determination.

As of October 2013, seven countries have made a declaration under Article 34(6) of the Protocol allowing individuals and non-governmental organizations with observer status at the African Commission to access the African Court directly: Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali, Rwanda, and Tanzania.⁹²²

African Court Orders Libyan Government to Adopt Provisional Measures after African Commission Refers NGO Communication to the Court

In early February 2011, Libyan security forces in the city of Benghazi violently suppressed peaceful demonstrations against the detention of an opposition lawyer, and the violence quickly spread to other parts of the country. On February 28, the Egyptian Initiative for Personal Rights ("EIPR"), Human Rights Watch, and INTERIGHTS submitted a joint communication to the African Commission. A few days later, the commission referred the matter to the African Court. In its application to the court, the commission called for the Government of Libya to "set up an exhaustive inquiry and prosecute the authors of these violations," compensate victims and family members, and "include human rights in the training programmes of its security forces."

On March 25, 2011, in light of the extreme gravity and urgency of the matter, the African Court issued an order for provisional measures. The order called on the Government of Libya to:

- (1) Immediately refrain from any action that would result in loss of life or violation of physical integrity of persons, which could be a breach of the provisions of the Charter or of other international human rights instruments to which it is a party; and
- (2) Report to the Court within 15 days from the date of receipt of the Order on the measures taken to implement the Order.

Due to the chaos and eventual change in government in Libya, the court was not able to enforce its order.⁹²³

⁹²² Coalition for an Effective African Court on Human and Peoples' Rights, "Access to the African Court," accessed Oct. 2013, http://www.africancourtcoalition.org/index.php?option=com_content&view=category&layout=blog&id=44&Itemid=49&lang=en.

⁹²³ FIDH, "The African Commission should continue to support democratic movements on the continent," Apr. 28, 2011, <http://www.fidh.org/en/africa/african-union/African-Commission-on-Human-and-Peoples-Rights/49th-session-of-the-African/The-African-Commission-should>; Interights, "African Commission on Human and Peoples' Rights v Great Socialist Peoples' Libyan Arab Jamahiriya," Mar. 25, 2011, <http://www.interights.org/african-commission-v-libya/index.html>; Application No. 004/2011, African Commission on Human and Peoples' Rights v. Great Socialist People's Libyan Arab Jamahiriya, accessed Jan. 31, 2014, http://www.african-court.org/en/images/documents/Court/Cases/casae_summaries/Application_No_004_-_libya_summary_-_august_2011_updated.pdf; African Court on Human and Peoples' Rights, Order, In the Matter of the African Commission on Human and Peoples' Rights v. Great Socialist People's Libyan Arab Jamahiriya, Mar. 15, 2013, available at http://www.african-court.org/en/images/documents/Court/Cases/Judgment/DECISION_-_Application_004-2011_African_Commission_v_Libya_Struck_outEngl.pdf.

⁹²⁴ International Federation for Human Rights – FIDH, *Practical Guide - The African Court on Human and Peoples' Rights*, *supra* note 904, at 106.

⁹²⁵ African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 39.

After the court determines that a case is admissible, the court considers the merits of the case. The court may appoint free legal representation to the complainant when the interests of justice demand.⁹²⁶ Hearings are open to the public, except in certain circumstances provided for in the court's Rules of Procedure.⁹²⁷ The court receives written and oral submissions from the parties, and the court also has the right to hold an inquiry and receive written and oral evidence (including expert testimony).⁹²⁸ The Court can also carry out field investigations.

The court has 90 days after the hearing to render its decision.⁹²⁹ If the court's decision recognizes a violation, it includes an order for appropriate remedies, including the payment of fair compensation to the victim.

How to file a case

The Registrar of the African Court accepts cases. Applications must comply with the Rules of the Court.

Applications should:

- Use one of the official languages of the African Union;⁹³⁰
- Provide a summary of the facts, the alleged violation, and the evidence to be cited to prove those facts;
- Provide proof of exhaustion of domestic remedies "or the inordinate delay of such local remedies";⁹³¹
- Clearly state the remedies the applicant seeks;
- Be signed by the applicant or a representative;⁹³²
- Include the name and address of the applicant's representative;⁹³³
- Include the name of the applicant, even if the applicant requests anonymity;⁹³⁴
- Include a request for reparations, if appropriate;⁹³⁵ and
- Be filed within a reasonable time after the date domestic remedies were exhausted, or by the deadline set by the court.⁹³⁶

Applicants should avoid using disparaging or insulting language. Evidence in support of the application should not be exclusively news disseminated through the mass media. The application should not "raise any matter or issues previously settled by the parties in accordance with the principles of the Charter of the United Nations, the Constitutive Act of the African Union, the provisions of the Charter or of any legal instrument of the African Union."⁹³⁷

⁹²⁶ International Federation for Human Rights – FIDH, *Practical Guide - The African Court on Human and Peoples' Rights*, *supra* note 904, at 104.

⁹²⁷ African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 43(2).

⁹²⁸ ACHPR, Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, *supra* note 913, Art. 26(1), (2).

⁹²⁹ *Ibid.* Art. 28(1).

⁹³⁰ African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 34. (At the time of writing, the working languages include Arabic, English, French, and Portuguese).

⁹³¹ African Court on Human and Peoples' Rights, "Frequently Asked Questions," accessed Jan. 16, 2014, <http://www.african-court.org/en/index.php/frequently-asked-questions>.

⁹³² African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 34(1)–(4).

⁹³³ African Court on Human and Peoples' Rights, "Frequently Asked Questions," *supra* note 931.

⁹³⁴ African Court on Human and Peoples' Rights, Rules of Court, *supra* note 913, Rule 40(1).

⁹³⁵ *Ibid.* Rule 34(5).

⁹³⁶ *Ibid.* Rule 40(6); African Court on Human and Peoples' Rights, "Frequently Asked Questions," *supra* note 931.

⁹³⁷ African Court on Human and Peoples' Rights, "Frequently Asked Questions," *supra* note 931.

Resources for using the African Court

The African Court's website provides application forms and other documents to help applicants file cases: http://www.african-court.org/en/images/documents/application/application_form.pdf.

African Court - Practice Guide for Litigants <http://www.african-court.org/en/images/documents/Court/Cases/Procedures/Practice%20Directions%20to%20Guide%20Potential%20Litigants%20En.pdf>

Practical Guide - The African Court on Human and Peoples' Rights (FIDH)

http://www.fidh.org/IMG/pdf/african_court_guide.pdf

AfCHPR - How to File a Case? <http://www.african-court.org/en/index.php/component/content/article/13-cases-from-court/22-submission-of-cases-to-the-court>

Practice Manual on the Procedure of the African Court on Human and Peoples' Rights (African Court Coalition) http://www.africancourtcoalition.org/index.php?option=com_content&view=article&id=136%3Anew-publication&catid=8%3Amiscellaneous&lang=en

Applications should be submitted to:

Registry of the Court

P.O. Box 6274

Arusha

Tanzania

Fax: +255-732-97 95 03

Email: registry@african-court.org

*Applications and other materials may be submitted by post, email, fax, or courier.

iii. African Committee of Experts on the Rights and Welfare of the Child

Article 32 of the African Charter on the Rights and Welfare of the Child (Children's Charter) established the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). The Children's Charter ensures that the UN Convention on the Rights of the Child accounts for the socio-cultural and economic realities particular to Africa.⁹³⁸ For example, the Children's Charter addresses harmful practices against the girl child (including female genital mutilation), rights of children living under apartheid, and the rights of the child in internal conflict and displacement.⁹³⁹

Under Article 42, the committee is responsible for promoting and ensuring the protection of the rights of the child enshrined in the Children's Charter.⁹⁴⁰ The Children's Charter calls on the committee to:⁹⁴¹

- Receive and consider reports from State Parties on compliance with the provisions of the African Charter on the Rights and Welfare of the Child and issue general recommendations to State Parties.
- Receive and consider individual complaints of violations of Children's Charter rights by State Parties and determine whether a State Party has violated rights recognized in the Children's Charter.

⁹³⁸ Claiming Human Rights, "Children's Charter," accessed June 13, 2013, http://claiminghumanrights.org/childrens_charter.html?&L=bavfnwknyvfvj.

⁹³⁹ ACHPR, The African Charter on the Rights and Welfare of the Child, accessed Jan. 9, 2014, <http://www.achpr.org/instruments/child>.

⁹⁴⁰ African Human Rights Case Law Analyzer, "African Charter on the Rights and Welfare of the Child," Art. 42, accessed Jan. 9, 2014, <http://caselaw.ihrda.org/instrument/acrcw.42/>.

⁹⁴¹ African Union, "ACERWC," accessed Oct. 2, 2013, <http://pages.au.int/acerwc>.

- Undertake investigative and fact-finding missions to investigate systematic or gross violations of child rights in countries that are State Parties to the Children’s Charter.
- Interpret the provisions of the Children’s Charter and set rules, principles, and standards governing children’s rights and welfare in Africa through general comments, resolutions, and declarations.

The committee consists of eleven experts serving in an individual capacity.⁹⁴² For a list of current members of the ACERWC, visit: <http://www.africa-union.org/child/members.htm>.

Observer Status

See Chapter 11 for information on how to obtain observer status with the ACERWC.

The ACERWC holds two ordinary sessions each year. The chairperson can also convene extraordinary sessions at the request of the committee or of a State Party to the Children’s Charter. Sessions usually take place at the African Union Headquarters in Addis Ababa, Ethiopia.⁹⁴³

Civil society engagement with the ACERWC

Civil society plays a vital role in advancing the principles and provisions of the Children’s Charter and in working toward implementation at a national and community level. Article 42 the Children’s Charter recognizes that one of the functions of the Committee is to “cooperate with other African, international and regional institutions and organizations concerned with the promotion and protection of the rights and welfare of the child.” Civil society can engage with the following committee mechanisms:

- State Reporting Process
- Sessions
- Individual Communications Procedure
- Investigative Missions.

State reporting process

State Parties must submit an initial report on the measures they have adopted to implement the Children’s Charter no later than two years after ratification, and then they must submit periodic reports every three years thereafter.⁹⁴⁴ The committee began examining these reports in May 2008.⁹⁴⁵

State Reporting Process for the ACERWC

1. Government submits its report to the committee
2. Committee appoints a rapporteur
3. Civil society organizations submit reports to the committee
4. Committee holds a meeting of its pre-session working group to identify issues for discussion
5. Committee holds a public plenary session to discuss the report with a delegation from the government of the country under review
6. Committee publishes concluding observations and recommendations
7. Government implements recommendations

⁹⁴² Child Rights Information Network, “African Committee on the Rights and Welfare of the Child,” accessed Oct. 2013, <http://www.crin.org/resources/infodetail.asp?ID=18065>.

⁹⁴³ *Ibid.*

⁹⁴⁴ ACERWC, “State Reports & Committee Recommendations,” accessed Oct. 2013, <http://acerwc.org/state-reports/>.

⁹⁴⁵ CRIN, African Committee on the Rights and Welfare of the Child, *supra* note 942.

The committee then publishes the state report on its website (<http://acerwc.org/state-reports/>) and assigns a rapporteur to lead the examination of the report. Civil society organizations submit shadow reports in response to the state report.⁹⁴⁶ The rapporteur then creates a draft list of issues, which the committee finalizes during its pre-session working group meeting.

The ACERWC formally examines the state report through a dialogue with a delegation from the government of the country under review. This examination takes place in a public plenary session. NGOs with observer status may attend the session, but they are not allowed to make statements during the review. After the plenary session, the committee meets privately to draft concluding observations and recommendations. The committee transmits its concluding observations and recommendations to the government of the country under review, and it also publishes them on its website and submits them as part of its report to the AU Assembly of Heads of State and Government.⁹⁴⁷

How to submit a shadow report to the ACERWC

The committee does not prescribe a specific format for NGO shadow reports. But the committee identifies main themes for governments to address in their state reports, and NGOs often structure their shadow reports around these same themes:⁹⁴⁸

- General measures of implementation of the Children’s Charter
- Definition of the child
- General principles
- Civil rights and freedoms
- Family environment and alternative care
- Health and welfare
- Education, leisure and cultural activities
- Special protection measures
- Responsibilities of the child.

Shadow reports can include suggested questions for committee members to pose to the government delegation. Shadow reports do not need to address all nine of the thematic clusters. NGOs should focus on the most relevant themes and, where possible, provide concrete examples of violations of children’s rights.⁹⁴⁹

⁹⁴⁶ According to Rule 69 of the Rules of Procedure of the ACERWC, “the Committee may invite the NGOs and CSOs, in conformity with Article 42 of the Children’s Charter, to submit to it reports on the implementation of the Children’s Charter and to provide it with expert advice in areas falling within their scope of activity.”

⁹⁴⁷ African Commission on Human and Peoples’ Rights, “African Commission on Human and Peoples’ Rights: State Reporting Procedure,” *supra* note 876.

⁹⁴⁸ ACERWC, “ACERWC Guidelines on Initial State reports,” accessed Oct. 2013, <http://acerwc.org/wp-content/uploads/2011/03/ACERWC-Guidelines-on-Initial-State-reports-English.pdf>.

⁹⁴⁹ Save the Children Sweden and Plan International, *Advancing Children’s Rights A Guide for Civil Society Organisations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child* (2010), 42. Available online at <http://www.crin.org/docs/AdvancingCSOguide.pdf>.

NGOs should submit reports soon after the committee publishes the State report, and before the meeting of the relevant pre-session working group. For further guidance on submitting a shadow report, consult: *2.3 The Civil Society Report*, in *Advancing Children's Rights A Guide for Civil Society Organizations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child* (2010): <http://resourcecentre.savethechildren.se/sites/default/files/documents/5449.pdf>.

Send shadow reports to:

Secretariat of African Committee of Experts on the Rights and Welfare of the Child

African Union Commission
Department of Social Affairs
P.O. Box 3243
Roosevelt Street (Old Airport Area)
W21K19, Addis Ababa, Ethiopia

ACERWC sessions

Organizations wishing to attend any committee meeting should first contact the Secretariat to obtain accreditation (written permission to attend).⁹⁵⁰ Only organizations with observer status are allowed to attend the ACERWC's Pre-Session Working Group. There are many opportunities for civil society organizations to engage with the committee during its sessions.

Speaking at the Pre-Session Working Group

CSOs are not allowed to speak at the plenary session, but organizations *are* allowed to speak during the ACERWC Pre-Session Working Group. Because the Pre-Session Working Group meets in private, NGO participation is by invitation only. When submitting a shadow report, organizations interested in attending the Pre-Session Working Group should include a cover letter requesting an invitation. For further guidance on participating in the Pre-Session Working Group, including a suggested framework for presentations, consult *Advancing Children's Rights: A Guide for Civil Society Organizations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child* (2010).

Lobbying

Civil society organizations can informally lobby committee members during the sessions. Advocates can speak with the appointed rapporteur or meet informally with committee members and governmental delegations before session meetings or during breaks. During these meetings, advocates can share updates to their shadow reports or present other relevant information.

Participating in the Civil Society Forum on the Rights and Welfare of the Child

The Civil Society Forum on the Rights and Welfare of the Child takes place before each ordinary session of the ACERWC. During the forum, NGOs working on the rights and welfare of children in Africa, along with children's rights experts and African Union representatives, come together to discuss issues relating to children's rights and to develop resolutions and recommendations for the committee. The Civil Society Forum supports the committee's work and provides a platform for information-sharing, networking, and advocacy. At each ACERWC session, the Civil Society Forum has a standing slot to share its recommendations and concerns with the committee. The Civil Society Forum is open to all children's rights organizations and activists, and membership is free. To learn more about the forum, visit: <http://www.csforum.info/faq/>.

⁹⁵⁰ Ibid., 30.

Individual communications procedure

Article 44 of the Children’s Charter empowers the committee to consider individual communications alleging a violation of any of the rights enshrined in the Charter. The ACERWC is the first treaty body dealing with the rights of the child to establish a complaints procedure.⁹⁵¹ State Parties to the Children’s Charter can make reservations concerning the extent of the committee’s powers, so advocates should consult those reservations before submitting an individual communication.

An individual—including the child whose rights have been violated or the child’s parents or legal representatives, witnesses, groups of people, and NGOs—may submit a communication. The ACERWC individual communication procedure is similar to the communication procedure of the African Commission and consists of three main steps: (1) consideration of admissibility; (2) consideration of the merits; and (3) implementation and monitoring of the committee’s decision.

The committee may set up a working group to meet before a session to determine whether the committee will accept a communication. If the committee decides that a communication is admissible, the working group appoints a rapporteur. The committee then brings the communication to the attention of the government concerned and requests response within six months. The committee may also request that the author of the communication and a representative of the government appear before the committee to present more information and to respond to committee questions. While the committee is considering a communication, it can ask the government concerned to take certain provisional measures to prevent any harm to the child mentioned in the communication and other children who could be victims of similar violations.

How to submit an individual communication to the ACERWC

The committee’s criteria for admissibility are similar to those of the African Commission (see Seven Requirements for Submitting a Complaint to the African Commission, above). Individual communications to the ACERWC must be based on the rights identified in the Children’s Charter. For further guidance, including how to ensure that children’s involvement in the communication procedure is in their best interests, consult: *Advancing Children’s Rights: A Guide for Civil Society Organizations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child* (2010). The ACERWC website includes decisions on past communications: <http://acerwc.org/communications/>.

Investigative missions

Under Article 45 of the Children’s Charter, the committee may undertake investigative missions to gather information on the situation of the rights of the child in a country that is a party to the charter.⁹⁵² These visits allow the committee to document violations and to make recommendations to the government concerned.⁹⁵³

The committee may conduct an investigation based on a matter referred to the ACERWC, a matter initiated by the ACERWC arising out of an individual communication, or in response to an invitation from the government of the country where the investigation takes place. The committee needs to obtain the permission of the government in order to visit the country. If a government refuses to allow an investigatory mission, however, the committee can report this lack of cooperation to the AU Assembly, which may choose to take further action.⁹⁵⁴

⁹⁵¹ ACERWC, “Communications,” accessed Nov. 2013, <http://acerwc.org/communications/>.

⁹⁵² CRIN, African Committee on the Rights and Welfare of the Child, *supra* note 945.

⁹⁵³ Save the Children Sweden and Plan International, *Advancing Children’s Rights A Guide for Civil Society Organisations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child*, *supra* note 949, at 58.

⁹⁵⁴ *Ibid.*, 59.

The investigations are to be carried out by sub-committees or working groups. The committee designates a special rapporteur among its members or appoints independent experts to accompany the mission sub-committee. The committee prepares a preliminary mission report on the situation of child rights in the country, and then it issues a final report with recommendations to the government concerned. The committee also sends the recommendations to other public and private institutions responsible for monitoring and implementing child rights.⁹⁵⁵

The committee invites the government to submit a written reply with information on measures taken to implement the committee's recommendations. The committee may also request that other institutions and civil society organizations provide additional information on measures the government has taken with respect to the recommendations. The committee may also ask the government to include information about implementation in its next periodic report to the committee.⁹⁵⁶

How to engage with ACERWC's investigative missions

After the committee announces that it will conduct an investigative mission, civil society organizations, especially organizations based in the country where the visit will take place, can play an important role in providing information to the committee as it prepares for its mission. NGOs can suggest places to visit, groups and individuals to meet, and issues to investigate. They might also provide the committee with information about local civil society organizations working on child rights issues, details of specific cases of alleged violations of children's rights, or an overview of patterns of violations.

Additional opportunities for civil society to engage with the ACERWC **Influence appointment of qualified candidates to serve on the committee**

Civil society organizations cannot nominate candidates, but they can influence the selection process by:

- Identifying qualified candidates and encouraging them to serve;
- Contacting government officials working on children's issues and seeking their support for targeted candidates;
- Writing to the Ministry of Foreign Affairs to identify why the targeted candidates are well-qualified;
- Lobbying the government to ensure that the nomination process is transparent and that candidates are selected on merit;
- Lobbying the government to nominate qualified candidates.⁹⁵⁷

For more information on the nomination process, visit: http://www.crin.org/docs/ACERWC_elections_2010.pdf.

Advocate

NGOs and individuals can use the committee's concluding observations and recommendations to advocate for governments to realize children's rights. They can involve the media in efforts to report on the government's progress in implementing the committee's recommendations and complying with the Children's Charter, encouraging scrutiny and ensuring that child rights are on the government's agenda. If a country has not yet ratified the Children's Charter or has ratified it with reservations, NGOs can lobby the government to ratify it as soon as possible or to withdraw the reservations.

⁹⁵⁵ CRIN, African Committee on the Rights and Welfare of the Child, *supra* note 945.

⁹⁵⁶ *Ibid.*

⁹⁵⁷ Child Rights Information Network, "African Committee: Elections 2010 - Information for NGOs," accessed Jan. 17, 2014, <http://crin.org/en/library/news/african-committee-elections-2010-%E2%80%93-information-ngos>.

Resources for Engaging with the ACERWC

Advancing Children's Rights A Guide for Civil Society Organizations on how to engage with the African Committee of Experts on the Rights and Welfare of the Child (2010).

<http://www.acerwc.org/wp-content/uploads/2011/03/52073950-Advancing-Children-s-Rights-2nd-Edition.pdf>

The African Charter on the Rights and Welfare of the Child (ACRWC)

<http://pages.au.int/acerwc/documents/african-charter-rights-and-welfare-child-acrwc>

African Committee of Experts on the Rights and Welfare of the Child (ACERWC)

<http://www.africa-union.org/child/>

<http://pages.au.int/acerwc>

The Civil Society Forum on the Rights and Welfare of the Child

<http://www.csoforum.info>

iv. African Peer Review Mechanism



The African Peer Review (APR) Mechanism is part of the New Partnership for Africa's Development, which since 2001 is an important socio-economic development program of the African Union. The APR Mechanism is a voluntary self-monitoring mechanism in which AU member states evaluate each other's quality of governance. The peer review process promotes mutual accountability and compliance with best practices. The overall purpose of the APR Mechanism is to improve governance—including observance of the rule of law and respect for

human rights—in African countries.⁹⁵⁸

The APR Mechanism reviews four areas: democracy and political governance; economic governance and management; corporate governance; and socio-economic development.⁹⁵⁹ As of 2013, the APR Mechanism has been in place for over a decade, and seventeen countries have participated in the review process.⁹⁶⁰ The APR Mechanism Secretariat is the liaison for the APR Mechanism and is in charge of fostering participation from the diaspora.⁹⁶¹

The APR Mechanism is a five-stage process:⁹⁶²

- **Country Self-Assessment.** The country under review first assesses itself by means of a standard questionnaire divided into four sections corresponding with the four areas of review: democracy and political governance; economic governance and management; corporate governance; and socio-economic development. The questions assess compliance with a wide range of African and international human rights treaties and standards. In parallel with this self-assessment, the APR Mechanism Secretariat produces a background study of the country's governance and development. The secretariat shares this report with the government of the country under review. The country's government is then invited to draft a preliminary Program of Action designed to improve the country's governance practices.

⁹⁵⁸ Claiming Human Rights, "African Peer Review Mechanism," accessed Nov. 2013, http://www.claiminghumanrights.org/peer_review.html.

⁹⁵⁹ African Peer Review Mechanism (APRM), "Objective, Standards, Criteria and Indicators," at 4, http://aprm-au.org/sites/default/files/aprm_osci_0.pdf.

⁹⁶⁰ Open Society Foundations et al., *The APRM +10: Reviewing a decade of Peer Learning and Projecting a Future of Governance in Africa* (May 17–18 2013), 1 (unpublished conference report). Also available online at <http://www.saiia.org.za/aprm-colloquium>.

⁹⁶¹ African Peer Review Mechanism (APRM), "APR Secretariat," accessed Jan. 9, 2014, <http://aprm-au.org/apr-secretariat>.

⁹⁶² Claiming Human Rights, "African Peer Review Mechanism," *supra* note 958.

- **Country Review Mission.** In the second stage, a review team visits the country and studies it in depth. The review team reaches out to all relevant stakeholders, including the government, government officials, political parties, parliamentarians, and representatives of civil society organizations. At this stage, the process explicitly encourages input from civil society representatives, including the media, academia, trade unions, and business and professional bodies.⁹⁶³
- **Compilation of Country Report.** The review team and the APR Mechanism Secretariat then draft a report based on the results of the first stage and findings from the visit. This report is discussed with the government of the country under review. The government then prepares a final Program of Action. The Program of Action commits a country's government (in partnership with other stakeholders) to specifically defined targets and interventions over a five-year period.⁹⁶⁴
- **APR Forum Review.** The secretariat submits the review report to the APR Forum, which consists of heads of state and government of countries participating in the APR Mechanism. At the APR Forum, countries consider reports and formulate any necessary action steps. At this stage, participating governments can exert peer pressure if a country's final Program of Action has particular shortcomings in light of the review report.
- **Report published.** After six months, the secretariat releases the report to the public, with the view to enable national stakeholders who participated in the process to monitor implementation of the Program of Action and any additional strategies to address concerns raised in the report.⁹⁶⁵



A meeting of the African Peer Review Forum in Addis Ababa, Ethiopia in January 2011

Every three to five years, the review is repeated to monitor progress toward the objectives outlined in the Program of Action and to develop a new report and strategy for the next five-year period.⁹⁶⁶

Civil society engagement with the APR Mechanism

The APR Mechanism is an innovative instrument that human rights organizations can use to make their voice heard. Civil society participation in the APR Mechanism process is essential to ensure the validity and legitimacy of the process, and the APR Mechanism incorporates civil society into the process of generating and monitoring governance standards and policies. When a country agrees to participate in the APR Mechanism, it must sign a

⁹⁶³ Marie Chêne, *U4 Expert Answer: The African Peer Review Mechanism* (Transparency International, June 2009), <http://www.u4.no/publications/the-african-peer-review-mechanism-aprm/>.

⁹⁶⁴ EISA, "Implementation of Programme of Action," in *APRM Toolkit*, accessed Nov. 2013, <http://eisa.org.za/aprm/toolkit/cso-implementation.htm>.

⁹⁶⁵ Chêne, *U4 Expert Answer: The African Peer Review Mechanism*, *supra* note 963, at 4–5.

⁹⁶⁶ *Ibid.*, 5.

memorandum of understanding agreeing to “ensure the participation of all stakeholders.”⁹⁶⁷ Civil society can engage with the APR Mechanism at several stages of the process:

1. Country support missions
2. Country self-assessment
3. National governing body and technical research agencies
4. Country review mission
5. Implementation and monitoring of Program of Action

Country support missions

The APR Mechanism Secretariat convenes Country Support Missions (also referred to as Technical Assessment Missions) as needed. These Country Support Missions are designed to provide support to countries preparing to undertake the APR Mechanism process. During these visits, a team from the secretariat visits the country to assess the preparations and procedures for the self-assessment review. The main focus of the visit is to support the national process. During these missions, the APR Mechanism Secretariat and other staff who are part of the mission sometimes meet with civil society organizations to hear their concerns, issues, and suggestions for the upcoming self-assessment. At this point, activists can share their thoughts on: the proposed national processes; the composition of the national APR structures, councils, or other bodies; civil society access to and engagement with the national APR Focal Point; and other logistical, structural, and organizational issues.⁹⁶⁸

Country self-assessment

The country self-assessment is the most critical area in which civil society can engage with the APR Mechanism process. Different countries will use different methods for involving civil society in the self-assessment, but core APRM documents⁹⁶⁹ require that the self-assessment process include broad and diverse civil society consultations. Civil society organizations must therefore be alert to developments in the self-assessment process, in particular:

- The date the government intends to launch the self-assessment process;
- When the government will form the country’s national governing body, and who will serve on it;
- At what stage in the process civil society can make submissions to the governing body, and what form those submissions should take;
- The length of time the government has allocated for the entire self-assessment process;
- At what stage stakeholders will review a draft self-assessment report (usually this review takes the form of a national stakeholder conference);
- When the government plans to produce its final self-assessment report;
- When the APR Mechanism Secretariat’s Country Review Team will conduct its official review mission; and
- At what stage the government will need to submit its final draft Program of Action and Country Report to the APR Panel for consideration.⁹⁷⁰

⁹⁶⁷ African Peer Review Mechanism (APRM), Memorandum of Understanding of the APRM, 2003, § 22. Available online at (http://aprm-au.org/sites/default/files/aprm_mou_0.pdf).

⁹⁶⁸ EISA, “Country Support Missions,” in *APRM Toolkit*, *supra* note 964.

⁹⁶⁹ Such documents include: African Peer Review Mechanism, “APRM Base Document,” accessed Jan. 17, 2014, <http://aprm-au.org/document/aprm-base-document-0>; Electoral Institute for Sustainable Democracy in Africa (EISA), “Africa Peer Review Mechanism: Organization and Process,” accessed Jan. 15, 2014, http://eisa.org.za/aprm/pdf/APRM_Organization_Process.pdf; EISA, “Memorandum Of Understanding Relating to Technical Assessment Missions,” accessed Jan. 15, 2014, http://eisa.org.za/aprm/pdf/APRM_MOU_Technical_%20Assessment.pdf; EISA, “Country Self-Assessment for the African Peer Review Mechanism,” accessed Jan. 15, 2014, http://eisa.org.za/aprm/pdf/APRM_Self_Assessment_Questionnaire.pdf.

⁹⁷⁰ EISA, “Country Self-Assessment Process,” in *APRM Toolkit*, *supra* note 964.

If any members of civil society think the government has not provided a fair opportunity for all national stakeholders to contribute to the self-assessment, they can either submit complaints directly to the APR Mechanism Secretariat or raise the matter during the visit of the secretariat's Country Review Team. Based on the track record of both organizations thus far, the APR Mechanism structures take this type of engagement seriously and are committed to encouraging all governments to ensure that all possible measures are taken to engage with a broad and diverse number of national stakeholders during the self-assessment process.⁹⁷¹

Civil society representation in the national governing body and technical research agencies

Another opportunity for civil society to maximize engagement in the APR process is to interact with the national decision-making bodies or technical agencies responsible for conducting governance research for the country. Each country has the right to shape and design its own processes and structures for self-assessment, and these processes may enlist technical agencies to conduct detailed research for the final report. Civil society may be able to advocate for non-governmental actors to have seats on the country's national governing body. The APR Panel strongly encourages governments to ensure that civil society has adequate representation on the national governing body.⁹⁷²

Further, if a country decides to make use of technical research agencies to conduct and collate surveys and other materials, civil society organizations are most often the preferred candidates to conduct this type of work. NGOs may strategize to be nominated as technical research agencies to conduct research on the four areas of governance under review.⁹⁷³

Country review mission

Review missions take place after a country has submitted its self-assessment report and draft Program of Action to the APR Mechanism Secretariat. The secretariat gives governments 60 days' notice prior to the commencement of the country review mission.⁹⁷⁴ Missions ordinarily take 10–21 days. During the review mission, an APR team meets with various stakeholders from government, the national governing body, business, and civil society. The team evaluates the country's self-assessment process. This evaluation process includes gathering feedback from civil society to identify critical issues, to assess areas that have been omitted or that have received insufficient attention, and to hear legitimate grievances and complaints about any aspect of the self-assessment process. This engagement provides civil society with an opportunity to ensure that mission staff do not overlook key concerns during the report-writing process.

Implementation and Monitoring of Program of Action

Civil society has the opportunity to participate in implementing the final Program of Action after it is published. In so doing, NGOs can engage with the government in improving the country's governance practices and in holding the government accountable to the targets the government itself established in its Program of Action.

In some cases, a Program of Action tasks civil society organizations with the responsibilities of an implementing agency. Programs of Action sometimes name civil society groups as stakeholder partners and monitoring agencies. The tasks outlined in the Program of Action typically require collaboration between multiple stakeholders, warranting extensive and sustained engagement between the official implementing agencies and civil society at large.

⁹⁷¹ Ibid.

⁹⁷² EISA, "National Governing Body/Technical Agencies," *APRM Toolkit*, *supra* note 964.

⁹⁷³ Ibid.

⁹⁷⁴ APR Forum, "MOU on Technical Assessment and the Country Review Visit," *supra* note 967.

Resources for Civil Society Engagement with the APR Mechanism

APRM Toolkit, South African Institute of International Affairs (<http://www.aprmtoolkit.co.za/>)

Governance and APRM: Publications, South African Institute of International Affairs (<http://www.saiia.org.za/news/governance-and-aprm-publications>)

African Peer Review Monitoring Project, South African Institute of International Affairs (<http://www.saiia.org.za/governance-and-aprm-projects/african-peer-review-monitoring-project-amp>)

APRM Toolkit, Electoral Institute for Sustainable Democracy in Africa and South African Integration Network (<http://eisa.org.za/aprm/home.htm>)

Evolving Approaches to Civil Society Engagement with the APR Mechanism

Ghana was the first country to participate in the APR Mechanism; its country visit took place in May 2004.⁹⁷⁵ Civil society participated in the process at three different levels: the National APR Mechanism Governing Council (NAPRM-GC); the Technical Review Teams (TRTs); and a country survey.⁹⁷⁶ The government selected members of civil society to serve on the seven-person NAPRM-GC, which oversaw the process,⁹⁷⁷ and the government included civil society in the TRTs.

The government's engagement of civil society faced criticism. First, the government did not solicit public input during the selection process.⁹⁷⁸ Second, the membership of the NAPRM-GC and TRTs was not sufficiently diverse.⁹⁷⁹ Third, the general public was not engaged in the process, which focused on elite and well-connected organizations. Sensitization workshops provided insufficient information about the APR Mechanism.⁹⁸⁰

Since Ghana's review, sixteen additional countries have participated in the APR Mechanism.⁹⁸¹ In May 2013, the APR Mechanism held a two-day conference to review the process. Participation in the APR process has improved, but countries are not in agreement about "who constitutes civil society and who they represent."⁹⁸² Conference participants identified a variety of ways to improve civil society participation. They called for new strategies to press governments to "conduct an open and honest review" and to engage civil society in all stages of the process. They also identified a need for better dissemination of information about the APR Mechanism.⁹⁸³ Participants determined that cross-national dialogue would strengthen the process.⁹⁸⁴ Participants also called for the APR Mechanism to consider how to engage more fully with the diaspora; the African Union recognizes the African diaspora as a distinct region that provides a variety of contributions to the African continent.⁹⁸⁵

⁹⁷⁵ Grant Masterson, *An Analysis of the Implementation of the African Peer Review Mechanism in Ghana, Kenya and Mauritius* (Electoral Institute for Sustainable Democracy in Africa, 2005), 8. Available online at (<http://eisa.org.za/PDF/OP29.pdf>).

⁹⁷⁶ Eric Albert Opoku, *Effective Stakeholder Participation in the APRM Process for the Promotion of Democratic Governance: A Case Study of Ghana* (December 2006), 18–20. Available online at (http://www.afrimap.org/english/images/documents/GhanaAPRM_opoku.pdf).

⁹⁷⁷ *Ibid.*, 18–21.

⁹⁷⁸ *Ibid.*, 20–22.

⁹⁷⁹ *Ibid.*

⁹⁸⁰ *Ibid.*, 25–26, 28–29.

⁹⁸¹ Open Society Foundations et al., *The APRM +10: Reviewing a decade of Peer Learning and Projecting a Future of Governance in Africa*, *supra* note 960, at 1.

⁹⁸² *Ibid.*, 6.

⁹⁸³ *Ibid.*, 8.

⁹⁸⁴ *Ibid.*, 18.

⁹⁸⁵ *Ibid.*, 15–16.

Case Study: Minority Rights Group International in Uganda

Uganda joined the APR Mechanism in 2003 and began its first self-assessment in February 2007. The Ugandan APR Commission partnered with civil society umbrella organizations on the assessment. Minority Rights Group International (MRG) observed that minority rights in Uganda were not receiving adequate attention in the process and reached out to the NGO Forum, one of the organizations working with the APR commission. Based on the response, MRG thought that the process would not adequately address minority rights in Uganda. MRG then partnered with Care International and five other organizations to prepare a position paper on minorities in Uganda. MRG sent the position paper to the Ugandan APR Commission and the APR Mechanism Secretariat. MRG also attended a meeting held by NGO Forum to validate the civil society submission for Uganda’s self-assessment. At this meeting, the participants determined that the draft insufficiently addressed minority rights, and the final civil society submission included a modified version of MRG’s position paper.

The Ugandan APR Commission’s country self-assessment discussed minority rights, but it did not include any proposed actions to address MRG’s concerns. When the APR Country Review Mission came to Uganda, MRG and its partners attended meetings, advocated for components of the Program of Action that would improve minority rights, and submitted a report documenting their concerns and highlighting omissions in the country self-assessment.⁹⁸⁶

v. African Sub-Regional Human Rights Mechanisms

a. Economic Community of West African States (ECOWAS) Community Court of Justice



The ECOWAS Community Court of Justice (ECCJ) is an increasingly active international adjudicator of human rights violations in West Africa. The court, based in Abuja, Nigeria, gives effect to the provisions of the African Charter on Human and Peoples’ Rights. The court’s decisions are legally binding on all 15 ECOWAS countries.

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Economic Community of West African States		
Benin	Ghana	Niger
Burkina Faso	Guinea	Nigeria
Cape Verde	Guinea Bissau	Senegal
Côte d’Ivoire	Liberia	Sierra Leone
The Gambia	Mali	Togo

The ECCJ is composed of seven judges appointed by the Authority of Heads of State and Government of ECOWAS Members. The court has jurisdiction to rule on violations of fundamental human rights. In January

⁹⁸⁶ Juliet Nakato Odoi, “Civil Society Participation in Uganda’s APRM Process,” SAIIA Occasional Papers Series 2 (June 2008).

2005, ECOWAS adopted an Additional Protocol to permit individuals to bring suits against Member States.⁹⁸⁷ Unlike other regional human rights mechanisms, “local remedies do not need to have been exhausted, before cases are brought to the ECOWAS Court of Justice.”⁹⁸⁸

The ECCJ’s major human rights decisions include *Hadijatou Mani Koroua v. Niger*, a landmark 2008 ruling holding the State of Niger responsible for failing to protect one of its citizens by passively tolerating the practice of slavery, and *SERAP v. Federal Republic of Nigeria and Universal Basic Education Commission*, a 2011 ruling ordering the Government of Nigeria to provide adequate financial support for public education in order to fulfill its obligation under the African Charter to provide free and compulsory basic education to every Nigerian child.⁹⁸⁹ A complete list of the court’s orders and decisions is available here:

http://www.courtecowas.org/site2012/index.php?option=com_content&view=article&id=157&Itemid=27.

The ECCJ can consider cases brought by:

- Individuals seeking relief for violation of their human rights;
- Individuals and corporate bodies seeking a determination that an ECOWAS official has violated their rights;
- ECOWAS Member States and the Executive Secretary bringing an action against a Member State for failure to fulfill a treaty obligation;
- ECOWAS Member States, the Council of Ministers, and the Executive Secretary seeking a determination of the legality of any action related to an ECOWAS agreement;
- ECOWAS staff who have exhausted remedies under ECOWAS Rules and Regulations; and
- ECOWAS Member States’ national courts referring an issue related to the interpretation of ECOWAS agreements.

Anyone under the jurisdiction of an ECOWAS Member State may bring a case before the court, but Article 12 of the Protocol establishing the ECCJ requires individuals to be represented by an agent or a lawyer.

ECOWAS Court of Justice Procedure

After a party submits an application to the ECCJ, the application is served on the defendant, who then has one month to reply. Both parties then have a second opportunity to reply. A Judge-Rapporteur produces a preliminary report, including recommendation as to whether the court should conduct a preparatory inquiry or other preparatory steps.⁹⁹⁰ Based on this preliminary report, the ECCJ decides on the measures of inquiry, which may include:

- The personal appearance of the parties;
- A request for information and for further documents;
- Oral testimony;
- The commissioning of an expert report; and
- An inspection of the place or of evidence.

The court then sets the date for any oral procedure, which may include hearing oral evidence from witnesses.

⁹⁸⁷ International Justice Resource Center, “Economic Community of West African States Court of Justice,” accessed Nov. 2013, <http://www.ijrcenter.org/ihr-reading-room/regional-communities/economic-community-of-west-african-states-court-of-justice/>.

⁹⁸⁸ Claiming Human Rights, “The ECOWAS Court of Justice,” accessed June 13, 2013, <http://claiminghumanrights.org/ecowas.html?&L=ismsewucnmjoiz>.

⁹⁸⁹ Open Society Foundation, “Fact Sheet: ECOWAS Community Court of Justice,” accessed Nov. 2013, <http://www.opensocietyfoundations.org/sites/default/files/fact-sheet-ecowas-court-justice-20130627.pdf>.

⁹⁹⁰ African Commission on Human and Peoples’ Rights, “ECOWAS Community Court of Justice,” in *A Conscientious Objector’s Guide to the International Human Rights System*, *supra* note 876. Also available online at <http://co-guide.org/mechanism/ecowas-community-court-justice>.

After the court hears evidence and presentations from the parties, the court deliberates on its judgment in a closed session. The court delivers its judgment in an open session, and the judgment is binding from the date of its delivery. The process typically takes more than two years.

How to File a Case with the ECOWAS Court of Justice

An application must be addressed to the Court Registry. Applications should be submitted in one of the court's official languages (English, French, and Portuguese) and in one of the official languages of the State against which the case is brought.⁹⁹¹ The application must be in writing and signed by the agent or lawyer of the applicant, with five certified copies for the court plus one copy for each party to the case.

Every application must include:⁹⁹²

- The name and address of the applicant;
- The party or government against which the application is made;
- The subject matter of the proceeding, including a clear description of the alleged human rights violations;
- A summary of the law on which the application is based, with clear reference to the provisions of the African Charter that are alleged to have been violated;
- The form of order or other relief the applicant seeks;
- Where appropriate, the nature of any evidence offered in support of the application; and
- An address for service in the place where the court has its seat and the name of the person who is authorized to accept service or, in the alternative, a statement that the lawyer or agent agrees to be served by telefax or other technical means of communication.

The court does not have specific deadlines for submitting applications relating to human rights violations, but applicants should file their cases as soon as possible. For more information on filing a case with the ECOWAS Community Court, consult: http://www.courtecowas.org/site2012/pdf_files/registrar_english_correct.pdf

Resources for Litigating in the ECOWAS Community Court of Justice

ECOWAS Community Court of Justice

<http://www.courtecowas.org/>

ECOWAS Community Court of Justice - Practice and Application Instructions

http://www.courtecowas.org/site2012/pdf_files/registrar_english_correct.pdf

Send applications to:

Community Court of Justice, ECOWAS
No. 10, Dar es Salaam Crescent
off Aminu Kano Crescent
Wuse II, Abuja, Nigeria
Fax: +234 09 5240780 (for urgent matters)

⁹⁹¹ Economic Community of West African States (ECOWAS), Rules of the Community Court of Justice of ECOWAS, 2002, Arts. 32–40. Also available online at http://www.courtecowas.org/site2012/pdf_files/rules_of_procedure.pdf.

⁹⁹² Claiming Human Rights, “The ECOWAS Court of Justice,” *supra* note 988.

b. East African Court of Justice



The East African Court of Justice (EACJ) is the judicial body of the East African Community, which includes Burundi, Kenya, Rwanda, Tanzania, and Uganda. The EACJ was created under Article 9 of the Treaty for the Establishment of the East African Community, and the court is mandated with interpreting and enforcing that treaty. The court has “has original, appellate and human rights jurisdiction. Thus, an applicant need not exhaust local remedies before approaching the Court.”⁹⁹³

The court is made up of two divisions: a First Instance Division and an Appellate Division. The court’s judges are appointed by the East African Community Summit, the highest organ of the community, from among persons recommended by East African Community States.⁹⁹⁴ The court is temporarily located in Arusha, Tanzania.

The EACJ received its first case in December 2005 and issued a ruling in October 2006. Cases are usually decided in less than a year. Many of these judgments concern the internal workings of the East African Community. In *Katabazi v. Secretary General of the EAC and Uganda*, however, the court upheld a complaint regarding violation of the rule of law, holding that the mere fact that a complaint also raises human rights issues does not exclude it from the jurisdiction of the Court.⁹⁹⁵ For a complete summary of orders and decisions of the Court, visit the “case law” links on the left tool bar of the EACJ website: <http://www.eacj.org/index.php>.

The EACJ can consider cases brought by:⁹⁹⁶

- Residents of East Africa challenging the legality of any Partner State/Community Act, regulation, directive, decision, or action;
- Partner States bringing an action against a State for failure to fulfill treaty obligations;
- Partner States seeking a determination of the legality of any action related to the Treaty;
- The Secretary General alleging that a Partner State failed to fulfill an obligation or breached the Treaty; and
- A national court referring an issue for a preliminary ruling on a question of Treaty interpretation or on the legality of Community law or action.

EACJ procedure

Cases begin when the applicant (or claimant) files a complaint with the court. The Registrar provides the respondent with a copy of the applicant’s complaint and requests that the respondent file a statement of defense. The Registrar then sends the statement of defense to the applicant, and both parties have an opportunity to submit a reply.⁹⁹⁷ Within 14 days after the close of the pleadings, the First Instance Division decides whether there is a legitimate reason to bring the complaint before the court and whether the case would be suitable for mediation, conciliation, or another form of settlement.⁹⁹⁸

⁹⁹³ Coalition for an Effective African Court on Human and Peoples’ Rights, “East African Court of Justice,” accessed Jan. 9, 2014, http://www.africancourtcoalition.org/index.php?option=com_content&view=category&layout=blog&id=55&Itemid=69.

⁹⁹⁴ East African Community, “East African Court of Justice – Composition,” accessed Jan. 9, 2014, http://www.eac.int/index.php?option=com_content&id=24&Itemid=156&limitstart=3.

⁹⁹⁵ International Justice Resource Center, “East African Court of Justice,” accessed Jan. 9, 2014, <http://www.ijrcenter.org/ihr-reading-room/regional-communities/east-african-court-of-justice/>.

⁹⁹⁶ East African Community, “Access to the Court,” accessed Jan. 8, 2014, http://www.eacj.org/access_to_the_court.php.

⁹⁹⁷ East African Court, *Court User’s Guide*, Sept. 2013, 8. Available online at http://eacj.huriweb.org/wp-content/uploads/2013/11/EACJ_Court_Users_Guide_September_2013.pdf.

⁹⁹⁸ *Ibid.*, 9.

If the case is not suitable for settlement, or if settlement efforts fail, the First Instance Division sets a hearing date. All court proceedings, including the pronouncement of decisions, are held in open court.⁹⁹⁹ Proceedings in open court are recorded and later transcribed for ease of access.¹⁰⁰⁰

A party that does not prevail in the First Instance Division may appeal to the court's Appellate Division. The Appellate Division has the power to confirm, deny, or modify decisions of the First Instance Division.¹⁰⁰¹

The Member State concerned is responsible for implementing any EACJ judgment.¹⁰⁰² If the Treaty confers jurisdiction on the EACJ, jurisdiction of national courts is ousted. EACJ decisions on the interpretation and application of the Treaty have precedence over decisions of national courts on similar matters.¹⁰⁰³

Parties to a dispute may be represented by a lawyer of their choice, so long as the lawyer is competent to appear before a superior court in the Member State concerned.¹⁰⁰⁴ The court may allow third parties, such as Member States, the Secretary General of the Community, a resident of a Member State, or a civil society organization to participate in the proceedings as *amicus curiae*.¹⁰⁰⁵ The court may issue protective interim measures or "any directions which it considers necessary or desirable."¹⁰⁰⁶

How to File a Case with the EAJC

An application should include:¹⁰⁰⁷

- the designation, name, address, and (where applicable) the residence of both the applicant and the respondent(s);
- the subject matter of the application and a summary of the law on which the application is based;
- the nature of any supporting evidence offered, if appropriate;
- the remedy the applicant seeks; and
- documentary evidence of any act, regulation, directive, decision, or action of a Partner State, if the application seeks annulment thereof.¹⁰⁰⁸

For more details on filing a case and court proceedings, consult the *EAJC Court User Guide*:
<http://eacj.huriweb.org/wp-content/uploads/2013/11/EACJ-Court-Users-Guide-September-2013.pdf>

⁹⁹⁹ East African Court of Justice Rules of Procedure, Rule 60(1). Also available online at http://www.eacj.org/docs/RULES_OF_PROCEDURE_2013.pdf.

¹⁰⁰⁰ *Ibid.*, Rule 59(2).

¹⁰⁰¹ East African Court, *Court User's Guide*, *supra* note 997, at 12.

¹⁰⁰² East African Community, "East African Court of Justice - Review of Judgments," accessed Nov. 2013,

http://www.eac.int/index.php?option=com_content&id=24&Itemid=156&limitstart=5.

¹⁰⁰³ "Chapter 8: Article 33: Jurisdiction of National Courts," in *Treaty Establishing the East African Community*, accessed Jan. 16, 2014,

http://eac.int/treaty/index.php?option=com_content&view=article&id=99&Itemid=218.

¹⁰⁰⁴ *Ibid.*, Art. 37.

¹⁰⁰⁵ *Ibid.*, Art. 40.

¹⁰⁰⁶ *Ibid.*, Art. 39.

¹⁰⁰⁷ East African Court of Justice Rules of Procedure, *supra* note 999, Rule 24(1)–(2).

¹⁰⁰⁸ *Ibid.*, Rule 24(3).

Resources for Litigating in the East African Court of Justice

EACJ Website

<http://www.eacj.org/>

EACJ Court User Guide

<http://eacj.huriweb.org/wp-content/uploads/2013/11/EACJ-Court-Users-Guide-September-2013.pdf>

EACJ Rules of Procedure

http://www.eacj.org/docs/RULES_OF_PROCEDURE_2013.pdf

Send applications to:

East African Court of Justice

P.O. Box 1096

Arusha, Tanzania

eacj@eachq.org

Tel: +255 27 2506093

+255 27 2162149

Fax: +255 27 2509493

+255 27 2162188

Chapter 11. Building Capacity to Be Effective Human Rights Advocates



When diaspora community members decide to take action to shape human rights conditions in their country of origin, they must also think about what they will need in order to be most effective. In a 2012 survey of diaspora community members from many different countries, The Advocates found that many felt that they would be more effective in their human rights work if they could access process-oriented training and capacity-building support. For example, many identified the need for resources on keeping their work secure and the basics of creating and operating a nonprofit organization. Others requested information about seeking assistance to address emergency situations affecting relatives and colleagues in their country of origin. This chapter is designed to address some of the questions that human rights activists in diaspora communities often ask about structural kinds of issues.

A. Obtaining Nonprofit Status

“Nonprofit organization” is a broad term that refers to organizations that are formed for the purpose of fulfilling a mission to improve the common good of society rather than to make profits for private gain. Nonprofit organizations are also referred to as charities, charitable organizations, civil associations, civil society organizations (CSOs), non-governmental organizations (NGOs), not-for-profit organizations, and private voluntary organizations (PVOs).

What is an NGO?

The United Nations defines an NGO as “a not-for-profit group, principally independent from government, which is organized on a local, national, or international level to address issues in support of the public good. Task-oriented and made up of people with a common interest, NGOs perform a variety of services and humanitarian functions, bring public concerns to governments, monitor policy and program implementation, and encourage participation of civil society stakeholders at the community level. Some are organized around specific issues, such as human rights.”¹⁰⁰⁹

The benefits of legal nonprofit status for organizations generally include tax-exempt status and the ability to apply for public and private grants. A nonprofit organization exists as a legal entity in its own right. Under the law in some countries, this formal structure limits the nonprofit organization’s liability for debt, providing protection to the individuals involved with the nonprofit. In the United States and some other countries, donations to nonprofits are tax-deductible. Nonprofit organizations are created and regulated by the laws of the country in which they are located; the process of applying for nonprofit status is, therefore, different in every country.

i. Considerations Before Starting a New Nonprofit

Before starting a nonprofit, however, it is important to understand that organizations with nonprofit status have substantial reporting and record-keeping obligations that may require significant time and financial resources. A nonprofit also needs a board of directors (or trustees), funding to operate, and volunteers and employees to carry out its activities. Human rights activists interested in setting up a nonprofit should carefully consider whether there are other options that will allow them to accomplish their goals with less paperwork.

Alternatives to Starting a Nonprofit

The Minnesota Council of Nonprofits has identified five alternatives to creating a new organization:¹⁰¹⁰

1. **Join an existing effort** as a volunteer, board member, or staff.
2. **Create a special program at an existing nonprofit.**
3. **Start a local chapter of a national or regional organization.**
4. **Maintain an unincorporated association.** Unincorporated associations can operate just like a nonprofit, but donations are not tax-deductible, and board members/founders may be liable in the event the association is sued.
5. **Find a fiscal sponsor for your organization.** A fiscal sponsor or agent is another nonprofit that fits with your mission, working style, and location and serves as an umbrella, usually for a fee.

ii. Applying for Nonprofit Status

Applying for nonprofit status is a complicated and time-consuming process that usually requires a lot of paperwork. A critical first step in establishing a new NGO is researching: (1) the legal framework that governs the registration process through which a nonprofit can become a legal person; (2) the circumstances under which the organization or donors may be entitled to tax benefits; and (3) the requirements for maintaining nonprofit legal status. Some relevant questions include:

- What types of organizations can be legally registered as NGOs, and how are NGOs classified (e.g., as foundations, associations, societies)?

¹⁰⁰⁹ United Nations Rule of Law, “Non-governmental organizations,” accessed Jan. 7, 2014, http://www.unrol.org/article.aspx?article_id=23.

¹⁰¹⁰ Minnesota Council of Nonprofits, “Alternatives to Starting a Non-Profit,” accessed Jan. 7, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/public-policy-advocacy/federal-law-and-nonprofit-lobbying>.

- What tax exemptions apply to NGOs? Some tax laws exempt from taxation income earned by NGOs, while others allow individuals who make charitable donations to certain organizations to deduct those contributions from their taxes, while other countries may exempt contributions of inheritances.
- What are the rules that apply to NGO registration? What forms are required for registration? Is the organization required to submit copies of its governing legal documents?
- Are there legal preconditions to registration? For example, is the organization required to obtain insurance, or to ensure that its board of directors is liable for the organization's acts?
- What requirements must the NGO fulfill to continue to function legally? Is the NGO required to have a governing body with clearly established responsibilities and the power to voluntarily terminate the NGO? Is the NGO required to submit reports to the supervising agency?
- Must the NGO reregister or does it have perpetual existence? Ideally, registration should ensure the perpetual existence of the NGO conditioned on compliance with certain legal requirements, since mandatory periodic registration can undermine the financial stability and efficiency of the organization.
- Can the government terminate the NGO, and under what conditions? The law may provide that involuntary termination of the NGO be decided a court or by the governmental agency in cases of flagrant violation of the laws.¹⁰¹¹

Regardless of the country, establishing a new nonprofit organization will (at a minimum) require registration with the government and annual financial and other reporting. In the United States, a nonprofit must satisfy both state and federal requirements in order to become a legal nonprofit organization. According to the National Council of Nonprofits, the basic steps to starting a nonprofit organization include:

Step 1. Incorporating at the state level (completing the state forms required to create a nonprofit corporation).

Step 2. Securing tax exempt status from the federal government (applying for tax-exempt status with the Internal Revenue Service).

Step 3. Filing for tax-exempt recognition at the state and local levels.¹⁰¹²

In the United States, because nonprofits are incorporated and governed by laws at the state level, it is important to be aware that there are different regulations, laws, guidelines, and even non-legal administrative practices in each state. U.S.-based activists should consider seeking help from an attorney or accountant in their state who has experience working with nonprofits. Some law schools provide free legal assistance to organizations seeking to incorporate as non-profits. Another good resource is the state association of nonprofits. Many state associations offer educational workshops, sample forms and templates, and other forms of assistance with starting a nonprofit organization.

While every state is slightly different, the process in the State of Minnesota can provide an example of some of the things that typically have to be done to start a nonprofit. Before incorporating at the state level, founders of a new nonprofit should:

- Draft a **mission statement** that briefly describes the purpose and goals of the organization;
- Reserve a **unique name** through the Secretary of State's office in the state where they are located. Organizations may not use a name that has been reserved or registered by another nonprofit; and
- Recruit individuals to serve as volunteers on the **board of directors.**¹⁰¹³

¹⁰¹¹ Stop Violence Against Women, "Registering as a NGO," accessed Jan. 16, 2014, http://www.stopvaw.org/Registering_as_a_ngo.

¹⁰¹² National Council of Nonprofits, "How to Start a Nonprofit," accessed Dec. 1, 2013, <http://www.councilofnonprofits.org/knowledge-center/how-start-nonprofit/step-2-key-questions-ask-getting-started>.

The founders also need to draft the organization's **Articles of Incorporation**. The Articles of Incorporation are the underlying legal document that formally names the organization, along with its location and purpose. The organization must write the Articles of Incorporation and file them with the Secretary of State's Office in the state where the organization is located before applying to the Internal Revenue Service for tax-exempt status.¹⁰¹⁴

In addition, founders of a nonprofit need to draft **Corporate Bylaws**. The bylaws are the rules of the organization. They generally include detailed information about membership, board of directors, fiscal management, etc. The board of directors should vote on and approve the bylaws at its **first meeting**, which marks the official start of the organization. The organization must submit its bylaws to the Internal Revenue Service when filing for tax-exempt status. The organization should also include information about its **business plan and budget** in this IRS filing.¹⁰¹⁵

Nonprofit organizations in the United States need to have a **Federal ID Number (EIN)**. The nonprofit should apply for an EIN after it is incorporated and before applying for tax-exempt status. There are several filing requirements to **obtain income tax exemption** from the IRS: the Application for Recognition of Exemption (IRS Form 1023); the User Fee for Exempt Organizations Determination Letter Request (IRS Form 8718); and the filing fee. If approved, the IRS determination letter is proof of the nonprofit's tax exempt status.¹⁰¹⁶

After the organization obtains federal tax-exempt status, it needs to apply for state **sales tax exemption** and a state **tax identification number**. Finally, the nonprofit must **register as a charity** with the state Attorney General's office. In Minnesota, a nonprofit must file a Charitable Organization Registration Statement with a copy of the Articles of Incorporation, IRS determination letter, most recent financial statement, and filing fee.¹⁰¹⁷

Once the nonprofit has completed all these steps and has been legally created, it must meet **annual filing requirements** that document fundraising and expenditures. The nonprofit is responsible each year for filing IRS Form 990 Return of Organizations Exempt from Income Tax with the federal government, as well as a report form and annual registration with the state.

Resources

National Council of Nonprofits—How to Start a Nonprofit

<http://www.councilofnonprofits.org/resources/how-start-nonprofit>

Find your State Associations of Nonprofits

<http://www.councilofnonprofits.org/find-your-state-association>

Minnesota Council of Nonprofits

<http://www.minnesotanonprofits.org>

Internal Revenue Service Website

www.irs.gov

IRS Publication 557, Tax-Exempt Status For Your Organization: a reference guide for filing requirements, employment issues, lobbying expenditures, etc.

¹⁰¹³ Minnesota Council of Nonprofits, "Steps to Forming a Nonprofit: Visionary Stage," accessed Dec. 3, 2013, <http://www.minnesotanonprofits.org/nonprofit-resources/start-a-nonprofit/steps/visionary>.

¹⁰¹⁴ Minnesota Council of Nonprofits, "Steps to Forming a Nonprofit: Planning Stage," accessed Jan. 16, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/steps/planning>.

¹⁰¹⁵ *Ibid.*

¹⁰¹⁶ Minnesota Council of Nonprofits, "Steps to Forming a Nonprofit: Federal Filing," accessed Jan. 7, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/start-a-nonprofit/steps/fedfiling>.

¹⁰¹⁷ Minnesota Council of Nonprofits, "Steps to Forming a Nonprofit: Minnesota Filing," accessed Jan. 16, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/start-a-nonprofit/steps/mnfiling>.

<http://www.irs.gov/uac/Publication-557,-Tax-Exempt-Status-for-Your-Organization-1>

The International Center For Not-For Profit Law: database of specific countries' legal requirements and regulations relating to NGOs

<http://www.icnl.org/research/library/ol/online/search/en>

European Center for Not for Profit Law

www.ecnl.org

Charity Commission for England and Wales

<http://www.charitycommission.gov.uk/>

Canada Revenue Agency: Charities and Giving

<http://www.cra-arc.gc.ca/chrts-gvng/menu-eng.html>

National Centers for Charitable Statistics: searchable list of frequently asked questions regarding nonprofit formation

<http://nccsdataweb.urban.org/PubApps/nonprofitfaq.php>

B. Developing Organizational Procedures and Policies

i. Conflicts of Interest

Internal procedures can usefully anticipate how the organization will deal with conflicts of interest. Conflicts of interest describe situations in which an individual who has responsibilities toward the organization (a director, board member, or staff) also has a personal financial interest in an activity of the organization. Conflicts of interest can create problems because a person's decisions may favor his or her individual interests and not the interests of the organization. Even if interests coincide, conflicts of interest can destroy public and donor confidence in the organization.¹⁰¹⁸

The organization can take certain steps early in its existence to avoid and minimize potential conflicts of interest. First, the organization should develop a conflicts of interest policy that is consistent with local law. A conflicts policy should require directors and board members to disclose potential conflicts of interest (e.g., business ventures in which the individual or his or her family participates that are currently doing or may do business with the NGO) in advance of service to the organization. Such a policy might also require directors and board members to refrain from participating in any decision in which they hold a financial interest.¹⁰¹⁹

ii. Financial Management¹⁰²⁰

A new organization also requires **accounting and auditing** procedures and policies. Not only might such procedures be required by law, but good financial practices help enhance an organization's legitimacy and ensure the transparency of the organization. Transparency is a critical part of increasing the public's understanding of the role of NGOs and their work which, in turn, is vital to the development of a local donor base.

Accounting, simply stated, involves tracking increases and decreases in money, and an accounting system is a set of rules that the organization's staff follows to track these changes. The goal of an accounting system is to ensure that each financial transaction is properly documented.

¹⁰¹⁸ Stop Violence Against Women, "Conflicts of Interest," accessed Jan. 7, 2014, http://www.stopvaw.org/conflicts_of_interest.html.

¹⁰¹⁹ Ibid.

¹⁰²⁰ Stop Violence Against Women, "Financial Management," accessed Jan. 7, 2014, http://www.stopvaw.org/financial_management.html.

Auditing is a process of testing the accuracy and completeness of an organization's financial statements. An audit is not done to ensure that an organization's transactions are *always* recorded correctly.

Laws in a particular jurisdiction may require every organization, or only certain organizations, to conduct audits. For example, an audit may be required if the organization receives more than a certain amount in financial contributions. An audit may be useful to the board in evaluating its oversight of the organization's financial transactions, or to the executive director in evaluating the NGO's financial situation. An audit may provide transparency and may reassure the public that a previous problem has been resolved. Audited financial statements may also provide additional credibility with donors.¹⁰²¹

A **budget** is a financial planning tool. A budget can help the organization sustain itself financially, prevent expenditure excess, and plan for future projects or expansion.

Although there are many types of budgets, a good budget should generally help the management of the organization reach financial objectives, give it a detailed picture of how money moves in and out of the organization, allow it to compare expenses and income, help it to forecast income and expenses, and provide it with a way to monitor the organization's progress toward its goals and to make changes as needed. In designing a budget, it may be useful—for both planning as well as tax purposes—to distinguish between long- and short-term operating expenses. With this approach, the overall budget may include one operating budget for equipment purchases and another operating budget for wages and supplies.

Additional Resources

The Nonprofit Management Center provides a useful overview of financial management, as well as a more in-depth discussion of all aspects of non-profit financial management.

<http://www.mapnp.org/>

Worldwide Initiatives for Grantmaker Support provides helpful resources for advocates on a variety of topics. Its Codes & Standards section offers particularly useful sample best practices and draft codes of ethics and financial accountability.

<http://www.wingsweb.org/>

The Alliance for Nonprofit Management provides an overview of budget preparation.

<http://www.allianceonline.org/>

Converting the Enemy: Budgeting During Planning, by Juliana Grenzeback, offers a humorous and succinct description of ways to make budgeting a part of the organization's planning process.

http://www.uic.edu/cuppa/gci/programs/profed/online/fin/Week%203/converting_the_enemy.pdf

IKnow.org includes useful tools for managing financial uncertainty.

<http://www.iknow.org>

iii. Fundraising

Nonprofits must comply with all federal, state, and local laws concerning fundraising practices, but organizations also have an ethical obligation to develop clear policies related to every aspect of their fundraising activities, including solicitation, acceptance, recording, reporting, and use of funds. Nonprofits must use funds consistent with donor intent and comply with specific conditions placed upon donations. Nonprofits should (and, in some situations, must) send a written acknowledgement of a donation to the contributor.

¹⁰²¹ Ibid.

The Minnesota Council of Nonprofits has listed the following principles and policies among the best practices for nonprofit fundraising:

- Fundraising communications should include clear, accurate, and honest information about the organization, its activities, and the intended use of funds;
- Nonprofits must not share, trade, or sell contact information for any donor without prior permission from the donor;
- Nonprofits should regularly communicate with contributors regarding their activities and should make such information available through public and private media (including web sites, emails, newsletters, press releases to major and community media outlets, and free or paid advertising);
- A nonprofit's board of directors has overall responsibility for raising sufficient funds to meet budgeted objectives;
- Nonprofits should adopt clear policies regarding the acceptance of personal gifts from any constituent to staff members, board members, and volunteers;
- Nonprofits have an obligation to decline funds or in-kind donations that would bring about adverse consequences for the organization or its constituents or that were given for purposes outside the scope of its mission;
- Nonprofits should apply a high percentage of each dollar raised to programs and services in accordance with practices of comparable organizations, applicable laws, and representations made to contributors and the public;
- Nonprofits should not offer compensation for fundraising personnel and contractors based on a percentage of funds raised or other commission-based formulas; and
- Nonprofits should closely monitor any individual or organization that solicits funds on its behalf to ensure adherence to donor intent as well as accountable fundraising practices.¹⁰²²

Resources

The Foundation Center's Foundation Directory Online provides access to foundations, grants and donors.
<http://fconline.foundationcenter.org/>

The Minnesota Council of Nonprofits' Funding Resources helps organizations prepare for fundraising and learn about funding sources in Minnesota.
<http://www.minnesotanonprofits.org/nonprofit-resources/fundraising>

The Minnesota Council on Foundations helps grant seekers look for grant opportunities and offers resources for writing grant proposals.
<http://www.mcf.org/>

Nonprofit Tech for Good is a social media resource for nonprofit professionals.
<http://www.nptechforgood.com/about-2/>

Asanti Africa Foundation offers some examples of creative fundraising ideas.
<http://youthinaction.asanteafrica.org/download-your-own-getting-started-kit/?gclid=CNzzxuzfqLoCFIN7cAod42sATg>

¹⁰²² Minnesota Council of Nonprofits, "Principles and Practices for Nonprofit Excellence: Fundraising," accessed Jan. 7, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/principles-and-practices/fundraising>.

Crowdfunding

Crowdfunding is the practice of raising funds for a project or event by soliciting small financial contributions from a large number of individuals. Crowdfunding typically uses internet-based platforms, some of which are limited to fundraising for particular types of causes. Successful crowdfunding campaigns aggressively use social media to attract supporters.

Crowdfunding websites:

Kickstarter.com: for artists, musicians, nonprofits, entrepreneurs and more

Indiegogo.com: for international projects

Globalgiving.com: for international projects

Rally.org: for nonprofits, artists, musicians, entrepreneurs and more

Razoo.org: for nonprofits in the United States

Note: The universe of crowdfunding websites is evolving; advocates should conduct a thorough examination of the available platforms before committing to a particular provider.

iv. Evaluation

Every nonprofit organization has an obligation to assess the impact of its activities, to use that information to improve, and to share the information with donors and the public. Nonprofits should define a clear set of goals and objectives that they can use to regularly measure their performance.

Best Practices

The Minnesota Council of Nonprofits identifies the following best practices for nonprofit evaluation.

Responsiveness

- Nonprofits should commit to effective and efficient delivery of services and should always strive to improve processes, programs, and results.
- Nonprofits should have a regular system for investigating ways to improve their services, programs, and internal processes in order to best serve their constituents.
- Nonprofit programs should take into account and respond to the experience, needs, and satisfaction of the constituents they serve.
- Nonprofits should conduct program evaluations in ways that are culturally sensitive and appropriate for the community served.

Measurement

- An organization's measurement systems should be practical and useful to improve ongoing processes, activities, and results.
- An organization's measurement systems should be used to evaluate organizational effectiveness and inform its operational plan.
- Performance measures should be realistic and appropriate to the size and scope of the organization and its constituents.
- Measurement should include information on satisfaction, activities, results, and community input.
- Performance measures should be specific and based on evidence gathered before, during, and after program development and implementation.
- Measurements may include both qualitative and quantitative data.

- Measurements should include data on efficiency and effectiveness.
- Nonprofit organizations should contract with other organizations or consultants to serve as external evaluators when appropriate and feasible.

End Uses

- Evaluation information collected from individuals must be kept confidential unless they give consent for its release.
- Nonprofit evaluation should be ongoing and should include input from a wide variety of constituents, service recipients, and volunteers.
- Nonprofits should be open to hearing from and having comprehensive discussions with members of the public who may question the organization's effectiveness.
- Nonprofits should use evaluation results to improve programs and activities and incorporate the results into future planning.
- Nonprofits should communicate evaluation results to a broad range of constituents.¹⁰²³

v. Complying with the Law

In addition to complying with rules related to nonprofit registration and reporting, nonprofits around the world must comply with the laws of the country in which they are carrying out their work. As stated in Human Rights Monitoring Principle 6 (Chapter 3, Part A), advocates conducting human rights work as part of their nonprofit activities should observe the local civil and criminal laws wherever they are working. Diaspora groups that want to improve human rights in their country of origin need to be aware of laws in that country that may apply to their work, as well as the work of any partners on the ground. Some countries restrict or prohibit outside groups from doing human rights work inside the country. Other countries prohibit local groups from receiving support from foreign organizations or engaging in certain types of activities.

Ethiopia and Russia Impose Legal Restrictions on International Human Rights Collaboration

The Ethiopian Government's 2009 Charities and Societies Proclamation prohibited "foreign" NGOs from working on certain human rights issues in Ethiopia. The definition of "foreign" includes Ethiopian NGOs that receive more than 10% of their funding from outside of Ethiopia. Financial contributions from Ethiopians living outside of Ethiopia are considered "foreign" funding sources. Violators of the law can face administrative sanctions and criminal punishment.¹⁰²⁴

A law in the Russian Federation requires NGOs that receive foreign funding and engage in "political activities" to register as "foreign agents." Another law bans funding from the United States that supports "political" NGO activity. This law also bans NGOs that engage in work that is "directed against Russia's interests."¹⁰²⁵ The Russian Government also expanded its definition of treason to potentially criminalize participation in international human rights advocacy.¹⁰²⁶

¹⁰²³ Minnesota Council of Nonprofits, "Principles and Practices for Nonprofit Excellence: Evaluation," accessed Jan. 7, 2014, <http://www.minnesotanonprofits.org/nonprofit-resources/principles-and-practices/evaluation>.

¹⁰²⁴ Center for International Human Rights, Northwestern University School of Law, *Sounding the Horn: Ethiopia's Civil Society Law Threatens Human Rights Defenders*, (Nov. 2009) (Prohibited human rights issues included women's rights, children's rights, disability rights, citizenship rights, conflict resolution, and democratic governance). Also available online at <https://www.law.northwestern.edu/legalclinic/humanrights/documents/EthiopiaCSOPaper-Nov2009.pdf>.

¹⁰²⁵ Human Rights Watch, *Laws of Attrition: Crackdown on Russia's Civil Society After Putin's Return to the Presidency*, (Apr. 2013), 1. Also available online at http://www.hrw.org/sites/default/files/reports/russia0413_ForUpload_0.pdf.

¹⁰²⁶ Syracuse College of Law Impunity Watch, "Legislation Expanding Treason Definition in Russia Could Criminalize Foreign-funded Organizations," accessed Jan. 7, 2014, <http://www.impunitywatch.com/legislation-expanding-treason-definition-in-russia-could-criminalize-foreign-funded-organizations/>.

Diaspora nonprofits should also be aware of potential legal constraints in the country of diaspora. In addition to normal civil and criminal laws, advocates need to be aware that there may be specific laws pertaining to support for certain categories of issues and organizations in other countries. For example, in the United States it is illegal for any person or organization to provide “material support” for a terrorist act or organization.¹⁰²⁷ The breadth of the material support law can pose particular challenges for nonprofits supporting work in other countries, as many otherwise permissible and potentially commonplace activities are considered “material support” and are punishable.¹⁰²⁸ Further, the U.S. Secretary of State has discretion to designate “foreign terrorist organizations” (FTOs) under § 219 of the Immigration and Nationality Act.¹⁰²⁹ Anyone who provides material support with the *knowledge* that the organization is a designated FTO or “has engaged or engages in terrorist activity . . . or . . . terrorism” may be found guilty of providing material support.¹⁰³⁰ Even if a nonprofit is seeking to provide support for only the lawful, nonviolent, and political purposes of an FTO through “monetary contributions, other tangible aid, legal training, and political advocacy,” it can still violate the material support law.¹⁰³¹

C. NGO Consultative Status at International and Regional Human Rights Mechanisms

The United Nations and some of the regional human rights systems¹⁰³² have processes for NGOs to formally engage with their human rights mechanisms. Many NGOs, including diaspora community NGOs, have been very effective in using their consultative and/or observer status to raise issues of concern at the United Nations and other human rights mechanisms.

i. UN ECOSOC Consultative Status

Article 71 of the UN Charter authorizes the Economic and Social Council (ECOSOC) to make arrangements for NGOs to play a consultative role at the United Nations.¹⁰³³ This consultative relationship is governed today by ECOSOC resolution 1996/31, which outlines the eligibility requirements, procedures, rights, and obligations of NGOs in consultative status. ECOSOC is the main entry point into the UN system for NGOs. ECOSOC is also the principal body that coordinates the economic, social, and related work (including human rights) of the United Nations’ specialized agencies, functional commissions, and regional commissions.

¹⁰²⁷ 18 U.S.C. § 2339A (Providing material support includes where the person or organization *knows or intends* “that they are to be used in preparation for, or in carrying out” any terrorist act. Providing material support to terrorists. Concealing or disguising “the nature, location, source, or ownership of material support or resources” is also punishable under § 2339A(a).).

¹⁰²⁸ *Ibid.* § 2339A(b)(1) (2009). The definition of “material support or resources” includes “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, lodging, training, expert advice or assistance, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials.” A prior version of § 2339A was held unconstitutional by *Humanitarian Law Project v. Mukasey*, 509 F.3d 1122, which held that the terms “training” and “service” were impermissibly vague. This decision led to *Holder v. Humanitarian Law Project*, 561 U.S. __ (2010), 130 S.Ct. 2705, which is the most current authoritative ruling on the issue of material support).

¹⁰²⁹ 8 U.S.C. § 1189(a)(1) (2004); U.S. Department of State, “Foreign Terrorist Organizations,” (Sept. 28, 2012), <http://www.state.gov/j/ct/rls/other/des/123085.htm>. The FTO designation is subject to judicial review.

¹⁰³⁰ 18 U.S.C. § 2339B (providing material support to a foreign terrorist organization); *ibid.* § 2339C (similarly prohibits “unlawfully and willfully provid[ing] or collect[ing] funds with the intention that such funds be used, or with the knowledge that such funds are to be used, in full or in part, in order to carry out” unlawful acts).

¹⁰³¹ *Humanitarian Law Project*, 130 S.Ct. at 2712–43. (The specific violations in this case included training members of an FTO on “how to use humanitarian law to peacefully resolve disputes,” participating in political advocacy for such organizations, and teaching members “how to petition various representative bodies such as the United Nations for relief.”)

¹⁰³² Inter-American Commission on Human Rights, Rules of Procedure of the Inter-American Commission on Human Rights, 2013. Available online at <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>. The Rules of Procedure do not provide a process by which NGOs can apply for observer status. The IACHR has discussed this question in a few sessions—1st, 2nd, and 17th sessions—but currently there isn’t an Inter-American norm that regulates NGO participation in ICHR sessions. ICHR “Report about the work developed during 7th session period,” October 7–25, OEA/Ser.L/V/II1.8 Doc. 35 (Spanish). Washington D. C, February, 1964. Available online at <http://www.wcl.american.edu/pub/humright/digest/inter-american/espanol/sesiones/7ses.html>.

¹⁰³³ UN Charter, (24 Oct. 1945), UN Doc. 1 UNTS XVI, Chapter X, Art. 71. Available online at <http://www.un.org/en/documents/charter/chapter10.shtml>.

ECOSOC has established three categories of NGO consultative status: general consultative status, special consultative status, and roster status. Large international NGOs that work on the majority of the ECOSOC agenda items around the world typically have general consultative status. Many human rights NGOs have special consultative status, which is granted to NGOs that have special competence in and work primarily in a few of the fields of activity covered by ECOSOC. NGOs that have a more narrow or technical focus and do not fit in either of the other categories can hold roster status.¹⁰³⁴

Today, approximately 4,000 NGOs have ECOSOC consultative status. Consultative status provides several important benefits to NGOs that are interested in accessing UN human rights mechanisms. An NGO with consultative status can:

- Attend UN conferences, sessions, meetings, and events;
- Make written and oral statements at these events;
- Organize side events at the United Nations;
- Obtain grounds passes to enter UN premises; and
- Network with other NGO representatives and lobby official government delegations.¹⁰³⁵

To be eligible for consultative status, an NGO must have been officially registered with the appropriate government authorities as an NGO or nonprofit for at least two years. It must also have “an established headquarters, a democratically adopted constitution, authority to speak for its members, a representative structure, appropriate mechanisms of accountability, and democratic and transparent decision-making processes. The basic resources of the organization must be derived in the main part from contributions of the national affiliates or other components or from individual members.”¹⁰³⁶ The NGO must also be able to show that its activities are relevant to the work of ECOSOC.

NGOs should apply by June 1 for consideration in the following year. The United Nations uses an online application process that includes the following steps:

Profile registration: The NGO registers itself in the UN civil society database. Once the NGO completes the registration process, a UN DESA officer reviews the profile and responds in few days with an email that the registration has been accepted.

Online application: The online application, which must be submitted in English or French, includes a questionnaire and summary. In addition, the NGO will have to submit supporting documents including copies of the constitution or charter, statutes or by-laws, the certificate of registration with the appropriate government authorities, the most recent financial statement and annual report, and examples of publications, articles, statements, or other written work.

NGO Branch screening: The UN NGO Branch begins reviewing applications after the first of June. The NGO Branch may contact an applicant for additional information or clarifications. After an officer has reviewed the application, it is submitted to the Committee on Non-Governmental Organizations. When the application is placed on the agenda of the NGO Committee, a letter is sent to the NGO informing it and

UN NGO Branch Website

NGOs can apply for consultative status on the UN NGO Branch website.¹⁰³⁷ Information on how to apply for consultative status is available in Arabic, English, French, and Spanish: <http://csonet.org/?menu=83>

¹⁰³⁴ UN NGO Branch, “Introduction to ECOSOC Consultative Status,” accessed Jan. 7, 2014, <http://csonet.org/?menu=30>.

¹⁰³⁵ United Nations, “Working With ECOSOC: An NGO’s Guide to Consultative Status,” (New York: UN, Sept. 2011), 7. Available online at <http://csonet.org/content/documents/Brochure.pdf>.

¹⁰³⁶ UN NGO Branch, “Introduction to ECOSOC Consultative Status,” *supra* note 1034.

¹⁰³⁷ UN NGO Branch, “How To Apply for Consultative Status,” accessed Jan. 7, 2014, <http://csonet.org/?menu=83>.

inviting up to two representatives of the NGO to be present for the consideration of the application should the organization so choose.

Review by the NGO Committee: The NGO Committee meets twice a year to decide which NGOs applying for consultative status it will recommend to the ECOSOC Council. The committee may direct additional questions to the NGO under consideration. The committee may also decide to defer an application review to the next session to give the NGO time to provide information and clarifications. At these meetings, the committee also considers quadrennial reports submitted by NGOs in General and Special consultative status.

NGO Committee recommendations: The NGO Committee publishes its recommendations in a report and submits them to the next ECOSOC meeting for final approval. The committee sends official notification of its recommendation to all NGOs with applications under review.¹⁰³⁸

After an NGO receives ECOSOC consultative status, it is obligated to report to the United Nations about its activities every four years. NGOs submit these quadrennial reports online through the NGO Branch website at <http://csonet.org/?menu=85>.

ii. Observer Status in the African Regional Human Rights System

Similar to the UN system, the African regional human rights system provides opportunities for NGOs to engage through observer status with the African Commission on Human and Peoples' Rights, as well as with the African Committee of Experts on the Rights and Welfare of the Child (ACERWC).

NGO observer status with the African Commission carries multiple benefits, including:

- Observers may be invited specially to be present at closed sessions dealing with issues of particular interest to them;
- Observers may be authorized by the Chairperson of the African Commission to make a statement on an issue of concern, subject to the observer providing, with sufficient lead-time, the text of the statement to the Chairperson through the Secretary to the Commission;
- The Chairperson of the Commission may give the floor to observers to respond to questions directed at them by participants; and
- Observers may request that the African Commission include issues of a particular interest in the provisional agenda, in accordance with the Rules of Procedure.¹⁰³⁹

Resolution 33 of the African Commission sets forth the requisite qualifications and process for applying for observer status.¹⁰⁴⁰ The NGO must be working in the field of human rights and must be able to document their commitment and capability to work towards the goals of the African Charter on Human and Peoples' Rights.

Benefits of Observer Status

For information about the benefits of observer status with the African Commission on Human and Peoples' Rights, visit <http://www.pijip-impact.org/wp-content/uploads/2012/04/OBTAINING-AND-THE-BENEFITS-OF-OBSERVER-STATUS.pdf>.

¹⁰³⁸ Ibid.

¹⁰³⁹ African Commission on Human and Peoples' Rights, "33: Resolution on the Criteria for Granting and Enjoying Observer Status to Non-Governmental Organizations Working in the field of Human and Peoples' Rights," accessed Jan. 7, 2014, <http://www.achpr.org/sessions/25th/resolutions/33/>.

¹⁰⁴⁰ Ibid.

To apply for observer status, an NGO must submit a written application to the Secretariat of the Commission. The application and supporting documents must include:

- proof of legal existence
- list of members
- basic components
- source of funding
- declaration of financial resources
- most recent financial statement
- statement of activities.¹⁰⁴¹

Once an NGO has been granted observer status, it must work to “establish close relations of co-operation with the African Commission and to engage in regular consultations with it on all matters of common interest.”¹⁰⁴² In addition, an NGO with observer status must provide activity reports to the commission every two years.¹⁰⁴³

African Commission Secretariat

NGOs applying for observer status should submit a written application to the Secretariat of the African Commission:

31 Bijilo Annex Layout, Kombo North District
 Western Region P.O. Box 673 Banjul
 The Gambia
 Tel: (220) 441 05 05, 441 05 06
 Fax: (220) 441 05 04
 E-mail: au-banjul@africa-union.org

NGOs that work on children’s issues in Africa may also want to consider observer status with the ACERWC.

How to Obtain Observer Status with the ACERWC

To obtain observer status, NGOs must:

- Support the work and spirit of the African Union and the committee;
- Be registered in a State Party to the Children’s Charter for at least three years before applying for observer status;
- Have authorization from the State Party to work on the protection and promotion of children’s rights;
- Have a recognized head office;
- Have a democratically adopted statute or charter;
- Have a representative structure and democratic and transparent decision-making processes;
- Have an administration consisting of a majority of African citizens or Africans from the diaspora, and have an elected children’s representative whenever possible, unless the organization is an international NGO; and
- Be prepared to provide information about the NGO’s sources of funding.

The committee encourages NGOs to apply as part of a coalition of organizations with similar interests.

The application for observer status should include:

- The NGO’s statute or charter;
- A current list of the NGO’s members;
- Details about the NGO’s sources of funding, including voluntary contributions from external sources;
- Copies of recent financial statements, including financial contributions granted directly or indirectly by the government of a country;

¹⁰⁴¹ Ibid. (“The statement of activities shall cover the past and present activities of the Organisation, its plan of action and any other information that may help to determine the identity of the organisation, its purpose and objectives, as well as its field of activities.”)

¹⁰⁴² Ibid.

¹⁰⁴³ IFEX, “Guide to the ACHPR,” accessed Oct. 2013, http://www.ifex.org/campaigns/african_commission/.

- A memorandum of past and current activities;
- Links (in or outside Africa) and any other information to help define the NGO's identity and areas of activity; and
- The names of two African Union member states or civil society organizations recognized by the AU that can attest to the authenticity of the NGO, if the NGO is a diaspora organization.

NGOs should submit applications at least three months before a session in order for the committee to consider the application during that session. NGOs must submit 12 copies of the application in English and 12 copies in French. For more information, consult "Criteria for Observer Status" at <http://acerwc.org/procedural-guidelines/>.

D. Safety and Security

Human rights defenders around the world face many risks to both personal and organizational safety. Regardless of whether the potential danger comes from governmental or non-state actors, human rights activists should take steps to protect themselves and their work product by developing plans to manage security, reduce threats of harm, and mitigate the effect of attacks. Ultimately, security planning can make advocates stronger and more effective in carrying out what can be dangerous human rights work.

i. Developing a Security Plan

Managing security involves assessing the unique security situation and then developing risk and vulnerability reduction strategies appropriate to the context. Front Line Defenders recommends a systematic approach that includes the following steps:

- analyzing context
- assessing risk
- analyzing threats
- producing security plans
- implementing and reviewing plans.¹⁰⁴⁴

When conducting risk assessment, human rights defenders frequently use a specific "Risk Formula" to assess the level of risk in relation to the threats they face, their vulnerabilities, and their capacities or resources to improve their security.¹⁰⁴⁵ Front Line Defenders depicts this formula as:

$$\text{Risk} = \frac{\text{Threats} \times \text{Vulnerabilities}}{\text{Capacities}}$$

One of the benefits of this tool is that it helps human rights defenders think about each of the elements of the formula individually and consider their vulnerabilities and capacities (both existing and required) in relation to each risk. In order to reduce a potential risk, human rights defenders can: (1) reduce threats; (2) reduce vulnerabilities;

¹⁰⁴⁴ Front Line Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," (2011), 2, http://www.frontlinedefenders.org/files/Workbook_ENG.pdf.

¹⁰⁴⁵ Ibid., at 10; Protection International, "New Protection Manual for Human Rights Defenders," (Brussels: Protection International, Apr. 2012), 29, http://protectioninternational.org/wp-content/uploads/2012/04/1-2_Manual_English_3rdEd.pdf.

or (3) increase capacities.¹⁰⁴⁶ Going through the process of risk self-assessment can also help human rights defenders begin developing a security action plan.

The following chart is an example from Front Line Defenders of the assessment of a human rights defender in Africa¹⁰⁴⁷:

Risks	Vulnerabilities	Capacities Existing	Capacities Required
Abduction	Live alone	Good security at home: fence, alarm, camera	Get a guard dog
		Neighbors will keep a lookout for suspicious characters and events	For now, leave a schedule of all my movements with a colleague. If the situation worsens, my cousin should come and stay with me and travel with me
		Other places to stay in times of danger	Communicate with colleague twice a day to confirm I'm safe
Arrest	False charges	Knowledge of the law	Learn lawyer's phone number in case mobile phone is taken
		Lawyer briefed and ready to act	
		Office and home have no compromising materials	
	Medical condition	Medication	Carry medication at all times

Security management is also about planning and setting up procedures that reduce the risk of harm and increase the sense of safety. For most human rights NGOs, security planning happens at both the individual and organizational level. Planning should be uniquely shaped based on the risks, vulnerabilities, and capabilities of the individuals and the organization, as well as the particular context in which they operate. Security plans should include daily policies (such as information management) for routine work, as well as specific situation protocols for emergency situations (such as an arrest or office break-in) and highly dangerous work (such as field work in a remote area).¹⁰⁴⁸

¹⁰⁴⁶ Frontline Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," *supra* note 1044, at 14.

¹⁰⁴⁷ *Ibid.*, at 17.

¹⁰⁴⁸ Protection International, "Preparing a Security Plan," in *New Protection Manual for Human Rights Defenders*, 76, accessed Jan. 16, 2014, http://www.protectioninternational.org/wp-content/uploads/2012/04/1-7_Manual_English_3rdEd.pdf.

Resources

For more detail on assessing risk, analyzing threats, and security planning, consult the following resources:

Workbook on Security: Practical Steps for Human Rights Defenders at Risk, Front Line Defenders (2011) http://www.frontlinedefenders.org/files/Workbook_ENG.pdf

New Protection Manual for Human Rights Defenders, Protection Online (2012) http://protectioninternational.org/wp-content/uploads/2012/04/1-2_Manual_English_3rdEd.pdf

List of Materials and Resources for Women Human Rights Defenders, Association for Women's Rights in Development (www.awid.org) www.defendingwomen-defendingrights.org/resources.php

Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders, Asia Pacific Forum on Women, Law and Development (2007) http://www.defendingwomen-defendingrights.org/pdf2008/EN_Claiming_Rights.pdf

Staying Safe: Security Resources for Human Rights Defenders, New Tactics in Human Rights, (2010) <https://www.newtactics.org/conversation/staying-safe-security-resources-human-rights-defenders>

ii. Security at Work and Home

Security at the NGO office and in human rights defenders' homes is crucial to their ability to carry out their work. A primary security goal is to prevent unauthorized access through:

- Physical barriers (fences, doors, and gates that are in good working order; keys kept securely and code-labeled);
- Technical measures (external lighting, motion sensors, alarms, cameras, video entrance phones); and
- Admission procedures for all types of visitors.¹⁰⁴⁹

After the NGO sets up office security protocols, it should carry out regular inspection and review of office security at least once every six months.¹⁰⁵⁰

In both the office and at home, advocates should keep handy an up-to-date list of emergency telephone numbers for the police, fire, hospital or ambulance, colleagues, and other NGOs, for example. In addition, human rights defenders should make sure to have fire alarms, fire extinguishers, and a first aid kit in good condition. When planning for home security, human rights defenders may also want to consider the safety of the area where they park their car. They may decide on a policy of never taking sensitive work home. In addition, the human rights defender should discuss with family and staff plans for what to do in specific situations (such as an unexpected package or a repair worker who wasn't called seeking entrance) or in cases of immediate danger.¹⁰⁵¹

¹⁰⁴⁹ Protection International, "Improving Security at Work and at Home," in *New Protection Manual for Human Rights Defenders*, 83–95, *supra* note 1048; Frontline Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," *supra* note 1044, at 73.

¹⁰⁵⁰ Protection International, "Improving Security at Work and at Home," *supra* note 1049, at 93.

¹⁰⁵¹ Frontline Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," *supra* note 1044, at 74.

Urgent Action Funds Improve Security at Women’s Center in Georgia

To raise awareness about inequality and women’s decreasing political participation in Georgia, the International Foundation Women’s Political Resource Centre (WPRC) opened a “Frontline Center” in 2011 as a place to hold workshops, exhibit art, show films, and host discussions about women’s rights. When women involved in the center’s activities came under attack by men in the community, WPRC applied for a Rapid Response Grant from the Urgent Action Fund to increase security at the center. WPRC used the funding to add a security system and to install iron bars on the doors and windows.¹⁰⁵²



iii. Technology and Digital Security

Ensuring the safety and security of records, resources, and information is another critical component of preserving safety and security. All communication and work done online, on a computer, or with any device that transmits analog or digital data is at risk of being stolen, copied, altered, or transferred. Human rights advocates should take steps to preserve digital security and privacy.

Security in-a-box

Tactical Tech and Front Line Defenders created Security in-a-box to meet the digital security and privacy needs of advocates and human rights defenders.



Security in-a-box is available in ten languages and includes three sections:

1. A How-to Booklet covering 11 important digital security areas, including “how to protect your computer from malware and hackers” and “how to protect the sensitive files on your computer.”
2. Hands-on Guides, each focusing on a specific freeware or open source software tool. Each guide shows how to use that tool to secure a computer, protect information, or maintain the privacy of internet communications.
3. A Mobile Security section, showing how to install and use specific freeware or open source smartphone applications, helping to make smartphone use more secure.

Visit <https://securityinbox.org/>.

Front Line Defenders suggests that human rights defenders preserve computer and phone security by taking steps to:

- Protect computers from malware and hackers by installing antivirus software, anti-spyware, and a firewall;

¹⁰⁵² Urgent Action Fund for Women’s Human Rights, “Protecting the Women’s Rights in Georgia,” accessed Jan. 15, 2014, <http://urgentactionfund.org/2012/06/protecting-the-womens-rights-in-georgia/>.

- Create and maintain secure passwords;
- Protect sensitive files on computers by backing up files, encrypting sensitive files to hide them, using innocuous file names, and using secure deletion tools;
- Keep Internet communications private;
- Be careful when using social networking tools; and
- Be aware of security risks of using mobile phones.¹⁰⁵³

Free Applications for Email Encryption

Remember: people spying on a computer can see any decrypted email that is downloaded or stored on the computer.

Mailvelope: www.mailvelope.com

Hushmail: www.hushmail.com

Enigmail: www.enigmail.net

Free Applications for Secure Text Messages and Chat

With the possible exception of Skype, instant messaging (chat) is generally very insecure unless used with a security application.

TextSecure: www.whispersystems.org

Threema: www.threema.com

Wickr: www.mywickr.com

Cryptocat: www.crypto.cat

Chat Secure: www.guardianproject.info/apps/chatsecure

Practitioner's tip: Webmail accounts (including Yahoo and Hotmail) are insecure and provide the sender's IP address in emails. Gmail and Riseup email accounts may be more secure. To ensure that a username, password, and other information are transmitted securely, human rights defenders should always use "https" instead of "http" when connecting to online services.¹⁰⁵⁴

iv. Urgent Response

Because human rights defenders are directly challenging human rights abuses by governments and private parties, their own rights can be endangered. In response to an imminent threat or a serious security breach, an individual or NGO may need to take emergency action. Ideally, the urgent response will involve implementation of action steps from a carefully developed security plan.

Human rights defenders may need to call an emergency hotline, relocate their home or office temporarily, or seek shelter in a safe house. They may need to take quick action to apply for regional or international emergency grants and relief programs. International organizations like Peace Brigades International can provide a protective presence at offices or homes, but human rights defenders also may wish to seek protection from influential

¹⁰⁵³ Frontline Defenders, "Workbook on Security: Practical Steps for Human Rights Defenders at Risk," *supra* note 1044, at 88–89.

¹⁰⁵⁴ *Ibid.*, 89.

persons and organizations in their home country or abroad. In a growing number of countries and regions, human rights organizations have come together to create joint initiatives focused on defender protection. These coalitions and networks can be an important source of assistance for relocation and emergency funds, as well as medical and legal assistance. Further, human rights defenders can tap into networks to conduct online and other types of national and international advocacy.

Regional and National Human Rights Defender Networks, Coalitions, and Ally Organizations

Africa		
Central Africa	Southern Africa	Northern Africa
<p>REDHAC: Réseau de Défenseurs des Droits Humains de l'Afrique Centrale Office: +(237) 33 42 64 04 Phone: +(237) 96 08 02 73 Email: contact@redhac.org</p>	<p>Southern Africa Human Rights Defenders Trust (SAHRDT) Contact: Leopoldo de Amaral of Open Society Initiative for Southern Africa Email: leopoldoa@osisa.org Phone: +27 10 590 2600 Address: 1st Floor, President Place, 1 Hood Avenue / 148 Jan Smuts Avenue Rosebank, Johannesburg, South Africa 20001</p>	<p>Euro-Mediterranean Foundation of Support to Human Rights Defenders Website: http://www.emhrf.org/ Phone: +45 32 64 17 26</p>
East Africa		
<p>East and Horn of Africa Human Rights Defenders Project (EHAHRDP) Website: http://www.defenddefenders.org/about-ehahrdp/ Address: Plot 1853 Lulume Rd, Nsambya, PO Box 70356, Kampala, Uganda Phone: +256-414-510263 EHAHRDP focuses its work on Burundi, Djibouti, Eritrea, Ethiopia, Kenya, Rwanda, Somalia (together with Somaliland), South Sudan, Sudan, Tanzania, and Uganda</p>	<p>Tanzania Human Rights Defenders Coalition (THRD-Coalition) Contact: Onesmo P. Olengurumwa, National Coordinator Phone: +255 22 277 038/48, mobile +255 717 082228/783 172394 Email: opngurumwa@gmail.com; defenderscoalition@rocketmail.com; Skype.onesmo.olengurumwal</p>	<p>National Coalition of Human Rights Defenders-Kenya Website: http://www.hrdcoalition.org/2009/09/contact-us.html Address: 3rd Ngong Avenue, Opp. Kenya Bankers Sacco, P. O. Box 26309-00100, Nairobi, Kenya Phone: +254-735553693 Email: info@hrdcoalition.org</p>
<p>National Coalition for Human Rights Defenders-Uganda Contact: Mr. Edward Serucaca, Convenor Phone: + 256 702 488 612 Email: coalitions@defenddefenders.org</p>	<p>Human Rights Network-Uganda Website: http://www.hurinet.or.ug/programs.php Address: Human Rights Network-Uganda Plot 94, Old Kiira Road, Ntinda (Near Ministers Village) P.O BOX 21265 Kampala, Uganda Email: info@hurinet.or.ug</p>	<p>Uganda- Human Rights Defenders Solidarity Network Phone: +256 775 651 979 Email: hrds.network@gmail.com</p>

West Africa		
<p>Reseau Ouest Africain des Defenseurs des Droits Humains/West African Human Rights Defenders Network (ROADDH/WAHRDN) Website: http://westafricadefenders.org/en/ Address: 14BP152, rue Above Phone: (00228) 22 20 12 38 Lome-Togo Email: info@westafricadefenders.org</p>	<p>Senegalese Coalition of Human Rights Defenders Website: http://www.nonviolentpeaceforce.org/oseddh-senegalese-coalition-human-rights-defenders Contact: Omar Diop</p>	<p>West Africa Network for Peacekeeping (WANEP) Website: http://www.wanep.org/wanep/ Postal Address: P.O. Box CT 4434, Cantonment-Accra, Ghana Phone: +233 302 775975/77, 775981 Email: wanep@wanep.org</p>
<p>Togolese Coalition Defenders of Human Rights Contact through the West African Human Rights Defenders Network</p>		

Asia		
East Asia	Near East / North Africa	Southeast Asia
<p>Chinese Human Rights Defenders Website: http://chrndnet.com/about-chinese-human-rights-defenders/ Email: contact@chrndnet.com</p>	<p>Arab Program for Human Rights Activists (APHRA) Website: http://aphra.org.eg/main/en/main.php Phone: (202) 22753975, 02- 22753985</p>	<p>KontraS (The Commission for “the Disappeared” and Victims of Violence) (Indonesia) Website: http://www.kontras.org/eng/index.php Phone: 021-3926983, 3928564 Email: kontras_98@kontras.org</p>
South Asia	Pan-Asia	
<p>Protection Desk—Nepal Website: http://protectiondesk-nepal.org.np/index.php Address: Sahamati Marga, Gairidhara, Kathmandu, Nepal, Post box no: 8974; EPC 195 Email: info@protectiondesk-nepal.org.np Phone: 977-01-4426538</p>	<p>Asian Federation Against Involuntary Disappearances Website: http://www.afad-online.org/ Email: afad@surfshop.net.ph Phone: 63 2 490 7862</p>	
<p>Bangladesh Human Rights Coalition Email: info@bdhumanrights.org.uk</p>	<p>Asian Human Rights Commission Website: http://www.humanrights.asia/contact-us</p>	

The Americas		Europe
<p>ACUDEH (Acción Urgente para Defensores de Derechos Humanos, Mexico) Website: www.acuddeh.org Email: acuddeh@riseup.org or acuddeh@gmail.com</p>	<p>Pensamiento y Accion Social (PAS) (Colombia) Address: Carrera 18A No. 39A-47 Tesusaquillo, Bogota D.C., Colombia Email: administracion@pas.org.co Phone: +571 751 87 76 / 320 01 17</p>	<p>Euro-Mediterranean Foundation of Support for Human Rights Defenders (provides emergency grants) Website: www.emhrf.org/en/guidelinesstandard.php Email: grants@euromedrights.net</p>
<p>UDEFEQUA (The Human Rights Defenders Protection Unit, Guatemala) Address: 1st Street 7-45 Zone 1, Guatemala City Phone: 502-2254-5840, 502-2254-4496 Email: udefegua@udefegua.org</p>	<p>Afro-Colombian Human Rights Defenders Campaign Website: http://www.afrocolombianhr.org/projects.html</p>	<p>Euro-Mediterranean Foundation of Support for Human Rights Defenders (provides emergency grants) Website: www.emhrf.org/en/guidelinesstandard.php Email: grants@euromedrights.net</p>

International Organizations
<p>International Foundation for the Protection of Human Rights Defenders Website: www.frontlinedefenders.org Email: info@frontlinedefenders.org Phone: +353 (0)1 212 3750 Emergency hotline: +353 (0)1 210 0489</p>
<p>Lifeline: Embattled CSO Assistance Fund (provides emergency financial assistance to Civil Society Organizations/Advocates under attack) Website: www.freedomhouse.org/program/lifeline#.Utaw0_RDt1U Email: Emergency.assistance.inquiries@gmail.com</p>
<p>Observatory for the Protection of Human Rights Defenders http://www.omct.org/human-rights-defenders/observatory/</p>
<p>Women Human Rights Defenders International Coalition http://www.defendingwomen-defendingrights.org/about.php</p>
<p>Protection International (Latin America, Central Africa and South East Asia) Website: http://protectioninternational.org/about/ Address: Brussels Office (Head office), Rue de la Linière 11, 1060 Brussels, Belgium Phone: +32 2 609 44 05 Fax: +32 2 609 44 06</p>
<p>Human Rights House Network Website: http://humanrightshouse.org/HRHN/index.html</p>

v. United Nations and Regional Emergency Response Procedures

The United Nations and the regional human rights systems have procedures for responding promptly when human rights defenders and others face emergency situations. For a comprehensive list that includes all of these urgent response mechanisms, see Appendix I.

a. UN Treaty-body Mechanisms

All UN treaty bodies have rapid response mechanisms in response to reports that a human rights defender faces reprisals for participating in treaty body activities. Treaty bodies may also request an urgent response to an individual communication, and may request interim measures while the treaty body considers the communication.¹⁰⁵⁵

Some UN treaty bodies have other urgent action and early warning procedures to respond to emergency human rights situations. First, a treaty body may request that a State Party report more quickly than the upcoming scheduled reporting deadline. For example, the CEDAW Committee may request that a State Party submit a report at any time.¹⁰⁵⁶ The Human Rights Committee and the Committee on the Rights of the Child have similar provisions.¹⁰⁵⁷

The Committee on the Elimination of Racial Discrimination has adopted early warning measures and urgent procedures to try to prevent serious violations of the Convention on the Elimination of All Forms of Racial Discrimination.¹⁰⁵⁸ Early warning measures aim to prevent existing problems from escalating into deeper conflicts and can also include confidence-building measures to identify and support measures to strengthen and reinforce racial tolerance, particularly to prevent a resumption of conflict where it has previously occurred. Early warning measures may be appropriate if there is a pattern of escalating racial hatred and violence, or if persons or groups initiate racist propaganda or appeals to racial intolerance, particularly if those persons are elected officials or other government personnel. They may also be appropriate, for example, if a pattern of racial discrimination or encroachment on the lands of minority communities results in a significant flow of refugees or displaced persons to other areas. Urgent procedures can respond to problems requiring immediate attention to prevent or limit the scale or number of serious violations of the Convention. Criteria for initiating an urgent procedure could include, for example, the presence of a serious, massive, or persistent pattern of racial discrimination.

The CERD Committee has adopted decisions, statements, and resolutions under its early warning measures and urgent procedures in relation to more than 20 State Parties since 1993. As part of this work the Committee has conducted two field visits and, with respect to six State Parties, has presented its concerns to the UN Secretary General, the Security Council, and other relevant bodies.

Practitioner's tip: The Advocates for Human Rights maintains a list of Resources for Human Rights Defenders. This resource sheet was designed specifically to provide information about safety and security, advocacy tools, and emergency assistance for at-risk human rights defenders. See Appendix Q.

¹⁰⁵⁵ Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights, Art. 5.

¹⁰⁵⁶ Committee on the Elimination of the Discrimination Against Women, 1979, Art. 18(1)(b).

¹⁰⁵⁷ International Covenant on Civil and Political Rights, 1966, Art. 40(1)(b); Convention on the Rights of the Child, Art. 44(4).

¹⁰⁵⁸ Committee on the Elimination of Racial Discrimination, A/48/18, Annex III E | F | S. Available online at http://www2.ohchr.org/english/bodies/cerd/docs/A_48_18_Annex_III_English.pdf.

CERD Committee Engages Urgent Action and Early Warning Procedure in Response to Request from Indigenous Peoples Living Along the Texas-Mexico Border

In March 2013, the Committee on the Elimination of Racial Discrimination issued a response to a request for consideration under its urgent action and early warning procedure. The request came from Dr. Margo Tamez, a citizen of the Lipan Apache Band of Texas, the Human Rights Clinic of the University of Texas at Austin, and the Lipan Apache Women Defense. They contended that the Texas-Mexico border wall has been constructed without consultation of the indigenous peoples over whose land the fence runs. They noted that the wall has a discriminatory effect on poor populations and indigenous peoples, dividing their communities and lands while sparing the interests of businesses and high-income land owners.¹⁰⁵⁹

The CERD Committee expressed concern over the effect the border wall has had on indigenous peoples and other communities as well the lack of consultation throughout the process of planning and constructing the wall.¹⁰⁶⁰ The Committee requested that the U.S. Government provide a detailed response to its concerns in its overdue periodic report to the committee.



For more information about the Lipan Apache Women Defense, visit <http://lipancommunitydefense.wordpress.com/>.

Forest Peoples Programme Calls for Urgent Action in Indonesia

The Forest Peoples Programme (FPP) is an international organization operating in the tropical forest belt throughout the world. One of its goals is to give indigenous peoples a voice by enabling communication with governmental, regional, and international bodies. For additional background, visit <http://www.forestpeoples.org/background/about-forest-peoples-programme>.

Beginning in 2011, FPP joined with several Indonesian NGOs to oppose the Indonesian Government's Merauke Integrated Food and Energy Estate Project (the MIFEE project). FPP appealed to the CERD Committee for urgent action: "The [indigenous] Malind [people] and others are presently experiencing and

¹⁰⁵⁹ Ariel Dulitzky and Margo Tamezy, the Lipan Apache Women's Defense, *The Situation of the Texas-Mexico Border Wall: A Request for Consideration under Early Warning and Urgent Action Procedures of the United Nations Committee on the Elimination of Racial Discrimination (90th Session)*, (Feb. 2013). Also available online at <http://www.utexas.edu/law/clinics/humanrights/work/texas-mexico-border-wall-brief-may-2012.pdf>.

¹⁰⁶⁰ Letter from Alexei Avtonomov, Chair of the UN Committee on the Elimination of Racial Discrimination, to the UN High Commissioner for Human Rights (Mar. 1, 2013) (Geneva, Switzerland). Also available online at http://www2.ohchr.org/english/bodies/cerd/docs/early_warning/USA1March2013.pdf.

are threatened with additional and imminent irreparable harm due to the massive and non-consensual alienation and conversion of their ancestral lands and forests.”¹⁰⁶¹

The CERD Committee expressed concern over the allegations and noted that the committee had issued a letter under its early warning and urgent action procedures in 2007, and that the Indonesian Government had never responded to the letter. In response to FPP’s appeal, the committee again

requested a reply from the Indonesian Government. The government has not yet responded.

FPP continues to work with many Indonesian organizations to continue to make requests for consideration under the CERD Committee’s early warning and urgent action procedures. In 2012 and 2013, FPP asked the committee for further consideration, noting that the situation for the Malind and other indigenous peoples continues to deteriorate.¹⁰⁶²



Deforestation to make way for an oil palm plantation in Riau Province, Indonesia

International Indian Treaty Council (IITC)

The International Indian Treaty Council (IITC) is an organization of indigenous peoples from the Americas, the Caribbean, and the Pacific working for the sovereignty and self-determination of indigenous peoples. As one of its main activities, the group provides a voice for these indigenous peoples through advocacy at all levels, from local to international.¹⁰⁶³

¹⁰⁶¹ Forest Peoples Programme, “Request for Consideration of the Situation of Indigenous Peoples in Merauke, Papua Province, Indonesia, under the United Nations Committee on the Elimination of Racial Discrimination’s Urgent Action and Early Warning Procedures,” (July 2011). Also available online at <http://www.forestpeoples.org/topics/un-human-rights-system/news/2011/08/request-consideration-situation-indigenous-peoples-merauk>.

¹⁰⁶² Forest Peoples Programme, “Request for Further Consideration of the Situation of Indigenous Peoples of Merauke, Papua Province, Indonesia, under the Committee on the Elimination of Racial Discrimination Urgent Action and Early Warning Procedures,” (July 25, 2013). Also available online at <http://www.forestpeoples.org/sites/fpp/files/publication/2013/08/cerduamifeejuly2013english.pdf>.

¹⁰⁶³ International Indian Treaty Council, “About IITC/Acerca de CITI,” accessed Jan. 7, 2014, <http://www.iitc.org/about-iitc/>.

At the international level, IITC works with the United Nations' Economic and Social Council (ECOSOC) and the UN Committee on the Elimination of Racial Discrimination. Since 1977, IITC has held consultative status with ECOSOC and in 2011 was upgraded to General consultative status.¹⁰⁶⁴ To protect the rights of the wide-ranging groups of indigenous peoples, IITC frequently files requests for consideration under CERD's Early Warning and Urgent Action Procedures.¹⁰⁶⁵



Most recently, IITC filed a request for Urgent Action based on the claim that Canada's parliament passed legislation in direct violation of treaty rights held by indigenous peoples in Canada.¹⁰⁶⁶ The Mushkegowuk People of Attawapiskat First Nation in Canada and the IITC note that the laws drastically reduced financial support for the Mushkegowuk and were passed without consultation, in violation of a national law establishing a duty to consult with First Nations.

b. Other Urgent Responses to Emergency Situations

If a serious human rights violation is imminent or ongoing, other international and regional mechanisms may be able to intervene. Such violations might include credible death threats, the imminent destruction of a village, or arbitrary arrest and detention.

Arbitrary Detention

Arbitrary detention is a violation of international human rights standards. A person is detained arbitrarily if the person is detained:

- merely for exercising a fundamental right guaranteed under an international treaty, such as the right to freedom of opinion and expression, the right to freedom of association, or the right to leave and enter one's own country;
- without an arrest warrant and without being charged or tried by an independent judicial authority, or without access to a lawyer;

¹⁰⁶⁴ *Ibid.*

¹⁰⁶⁵ International Indian Treaty Council, "CERD Urgent Action and Early Warning Procedures," accessed Jan. 7, 2014, <http://www.iitc.org/program-areas/defending-human-rights/submissions-to-united-nations-human-rights-bodies/the-un-committee-on-the-elimination-of-racial-discrimination-cerd/cerd-urgent-action-and-early-warning-procedures/#>.

¹⁰⁶⁶ International Indian Treaty Council, "The Situation of the Mushkegowuk People of Attawapiskat First Nation in Canada: A Request for Consideration Under the Early Warning and Urgent Action Procedures of the United Nations Committee on the Elimination of Racial Discrimination (82nd Session)," (Feb. 10, 2013), <http://cdn7.iitc.org/wp-content/uploads/IITC-Mushkegowuk-UA2013-FINAL.pdf>.

- beyond the term of the sentence or punishment imposed on the person; or
- as a result of a growing practice of administrative detention, such as detention of people seeking asylum.¹⁰⁶⁷

(i) UN Special Procedures: Urgent Appeals

UN special procedure mandate-holders have the authority to act on allegations against all UN member countries, regardless of whether a country has ratified a particular treaty. Victims of imminent or emergency human rights violations, or people acting on their behalf, can send an “urgent appeal” to the special procedure requesting prompt intervention. An urgent appeal is appropriate when the alleged human rights violations are time-sensitive and involve potential loss of life, life-threatening situations, or imminent or ongoing damage of a very grave nature to victims.¹⁰⁶⁸

Each special procedure has a thematic or geographic area of focus. The most relevant mandate holders for human rights defenders facing emergency situations are the UN Special Rapporteur on the situation of human rights defenders and the UN Working Group on Arbitrary Detention. But a person may send an urgent appeal to more than one special procedure at the same time, so advocates should consult the menu in Appendix I to identify all relevant urgent appeal options. Some special procedures, including the Special Rapporteur on the situation of human rights defenders and the Working Group on Arbitrary Detention, have model questionnaires for urgent appeals.

The decision of whether or not to intervene with a government is left to the discretion of each special procedure and depends on criteria established by them, as well as the criteria set out in the United Nations’ Code of Conduct for special procedure mandate-holders. Mandate-holders are also required to take into account, in a comprehensive and timely manner, information provided by the government concerned on situations relevant to their mandate.¹⁰⁶⁹

The UN Special Rapporteur on the situation of human rights defenders can intervene in emergency situations. The special rapporteur can act on information from government authorities, UN agencies, NGOs, and individual human rights defenders. If the special rapporteur determines that the information is likely valid and that the source of the information is reliable, she will contact the government of the country where the alleged violation is occurring. If the situation warrants immediate measures because a violation is imminent or ongoing, such as when a human rights defender receives death threats, the special rapporteur will issue an “urgent action letter” to the government of the country where the human rights defender is located. “The primary objective of the letter is to ensure that State authorities are informed of the allegation as early as possible and that they have an opportunity to investigate it and to end or prevent any human rights violation.”¹⁰⁷⁰

The special rapporteur has issued guidelines for submitting requests for urgent action and allegation letters (see table below). To communicate with the Special Rapporteur, advocates should use this contact information:

- Send requests to: urgent-action@ohchr.org. (The subject line of the e-mail should refer to the mandate of the Special Rapporteur on human rights defenders.)

¹⁰⁶⁷ Office of the UN High Commissioner for Human Rights, “Fact Sheet No. 26, The Working Group of Arbitrary Detention,” accessed Jan. 7, 2014, <http://www2.ohchr.org/english/about/publications/docs/fs26.htm>.

¹⁰⁶⁸ Office of the UN High Commissioner for Human Rights, “Working with the United Nations Human Rights Programme: A Handbook for Civil Society,” (2008), 115, <http://www.ohchr.org/Documents/Publications/NgoHandbook/ngohandbook8.pdf>.

¹⁰⁶⁹ *Ibid.*

¹⁰⁷⁰ Office of the UN High Commissioner for Human Rights, “Human Rights Defenders: Protecting the Right to Defend Human Rights: Fact Sheet No. 29,” 24, <http://www.ohchr.org/Documents/Publications/FactSheet29en.pdf>.

- Call +41 22 917 1234 (Geneva, Switzerland) and ask to speak with staff at the Office of the High Commissioner for Human Rights dealing with special procedures, and specifically ask for staff supporting the mandate of the Special Rapporteur on human rights defenders.
- Fax: +41 22 917 9006 (Geneva, Switzerland).¹⁰⁷¹

The special rapporteur’s staff will acknowledge the receipt of a submission if requested. They can be contacted at any time for further discussion.¹⁰⁷²

Advocates should consider the special rapporteur’s rules on confidentiality. The identity of a victim will always be included in any contact between the special rapporteur and governmental authorities. The special rapporteur cannot intervene without revealing the victim’s identity. If the victim is a minor (under 18 years of age) the special rapporteur will include the victim’s name in contact with the government but will not include the name in any subsequent public report. The source of the information provided or the victim may also request that the victim’s name not be included in public reports. The identity of the source of information on the alleged violation is always kept confidential, unless the source agrees that it may be revealed. When submitting information, individuals and groups may indicate whether there are any other details that they would like to remain confidential.¹⁰⁷³

Guidelines for Submitting Allegations of Violations Against Human Rights Defenders to the Special Rapporteur on the Situation of Human Rights Defenders¹⁰⁷⁴

A. Essential information	B. Useful information	C. Sample letter to the Special Rapporteur
1. Name of alleged victim/s Take care to give first and family names and to spell names correctly. Victims can be individuals, groups, or organizations.	If the victim is an individual, please provide information on gender, age, nationality, and profession. If the victim is an individual or an organization, please provide contact details. Contact details are treated as confidential.	Ms. Aabb Ddee, a lawyer, lives in [name of city/town and country].
2. Status of the victim as a human rights defender In what human rights activity is the victim (person/s, organization) engaged?	Where relevant, please also indicate the city and country in which the victim (person/s, organization) conducts this human rights work.	Aabb Ddee takes up legal cases supporting the right to adequate housing on behalf of ethnic minorities. She is also a member of the National Commission for Human Rights.

¹⁰⁷¹ Office of the UN High Commissioner for Human Rights, “Special Rapporteur on the Situation of Human Rights Defenders,” accessed Jan. 7, 2014, <http://www2.ohchr.org/english/issues/defenders/complaints.htm>.

¹⁰⁷² Office of the UN High Commissioner for Human Rights, “Submitting Complaints,” <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Complaints.aspx>.

¹⁰⁷³ Ibid.

¹⁰⁷⁴ © United Nations Office of the High Commissioner for Human Rights (OHCHR) / Special Rapporteur on the situation of human rights defenders. URL: <http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Complaints.aspx>. Provided in accordance with the Terms and Conditions of Use of United Nations websites: <http://www.un.org/en/aboutun/terms/>. Reprinted with permission.

A. Essential information	B. Useful information	C. Sample letter to the Special Rapporteur
<p>3. Alleged violation/s committed against the victim</p> <p>What happened? Where? When? What is the current situation?</p>	<p>If an initial violation leads to other events, please describe them chronologically. E.g. if the initial concern is that a human rights defender has been arrested, details should be provided. But if he or she is later detained, other useful information would include: the place of detention; the person's access to a lawyer; conditions of detention; the charges; etc.</p>	<p>Aabb Ddee received an anonymous threat to her safety. On [day/month/year] Ms. Ddee received a letter at her office in [name of town]. The letter was addressed to her and contained only the words "Be careful." In addition, the following day Ms. Ddee was followed closely while driving from her office by two men in a white car.</p>
<p>4. Perpetrators</p> <p>Give available information on who allegedly committed the violation: e.g. two men (in uniform?); rank, unit, or other identification or title.</p>	<p>Witnesses</p> <p>Were there any witnesses to the alleged violation? Were there any other victims?</p>	<p>Aabb Ddee was unable to identify the two men following her or their vehicle. A friend accompanying Ms. Ddee in her car also saw the vehicle following them.</p>
<p>5. Action by authorities</p> <p>Has the matter been reported to the relevant authorities? What action has been taken?</p>	<p>Action taken by the victim or by human rights organizations</p> <p>Has the alleged violation been made public? Has this information been sent to others?</p>	<p>Aabb Ddee reported both incidents to the police [name/address of police office] the same days they occurred. The police have opened an investigation. She also reported the incidents to a local newspaper [name].</p>
<p>6. Link between the violation and human rights work</p> <p>Why do you think the alleged violation is a response to the human rights work of the victim?</p>	<p>Previous incidents</p> <p>If there have been previous incidents which are relevant, please give details.</p>	<p>A year ago [date], another lawyer representing the same ethnic group as Aabb Ddee received a threatening letter similar to Ms. Ddee's and was later [date] killed by unknown persons.</p>
<p>7. Who is submitting this information? (Confidential)</p> <p>Give name, contact details and professional role (if relevant).</p>	<p>Submissions may be made by organizations or individuals.</p>	<p>This letter is submitted by the National Commission for Human Rights, with which Aabb Ddee works.</p>

A. Essential information	B. Useful information	C. Sample letter to the Special Rapporteur
<p>Updates</p> <p>Please send any updated information you have as soon as possible. It is especially important to know if there has been any change in the situation of the victim. Updates might be given where: (1) additional information becomes known (e.g. the identity of the perpetrator of the violation); or (2) new events occur (e.g. the victim’s release from detention).</p>		<p>[two months later] We learned today [date] that the police investigation was closed yesterday. Two men have been arrested and detained on charges of sending a threatening letter to Aabb Ddee on [date] and of following her in their car when she left work the next day. The men are due to appear in court in two weeks. While pleased with the arrests, Ms. Ddee believes that the person who ordered these acts to be committed remains at liberty. She has asked that the police investigation be continued.</p>

Groups Make Urgent Action Request to the UN Special Rapporteur on the Situation of Human Rights Defenders to Secure the Release of Jalila Khamis Koko

On March 14, 2012, Sudanese National Intelligence and Security Services (NISS) arrested Mrs. Jalila Khamis Koko in Khartoum, Sudan. She was a teacher and member of the Nuba Mountains Women Organisation, and she had been providing support to internally displaced persons from South Kordofan and the Nuba Mountains, where there had been a protracted armed conflict between the Sudanese Armed Forces and the Sudan Liberation Movement-North. In a video statement prior to her arrest, she had called on the Government of Sudan and the international community to stop the war in South Kordofan and to address the humanitarian situation in the region. In detention, NISS officers threatened her with death and interrogated her about her activism.

Arry is an organization started by Sudanese activists in Sudan and in the diaspora in response to the conflicts in Sudan and genocides against indigenous people in the Nuba Mountains, Blue Nile, and Darfur. The founders wanted to “create a better life and restore our people’s dignity that [was] lost through the injustice and violence in our country.” Arry has offices in the United States, Greece, and Sudan.¹⁰⁷⁵

On December 18, 2012, Arry, in collaboration with the UK-based organization Redress, submitted an urgent action request on behalf of Jalila Khamis Koko to the Special Rapporteur on the situation of human rights defenders. They also shared the request with the



Human rights defender Jalila Khamis Koko

¹⁰⁷⁵ Arry, accessed Nov. 8, 2013, <http://arry.org>.

Special Rapporteur on Torture and Other Cruel, Degrading and Inhuman Treatment or Punishment, the Special Rapporteur on Violence against Women, and the Independent Expert on the Situation of Human Rights in Sudan. The request called on the special rapporteurs to ensure Jalila Khamis Koko's immediate and unconditional release, to call for an immediate, full, and independent investigation into her arrest, detention, torture, and ill-treatment, and to ensure that those responsible be held accountable. She was released after a court hearing on January 20, 2013.¹⁰⁷⁶

Read the urgent action request:

http://www.redress.org/downloads/FinalUrgentAction_JalilaKhamiKoko_18December2012.pdf.

The UN Working Group on Arbitrary Detention investigates cases of deprivation of liberty inconsistent with human rights standards and maintains open dialogue on the topic to assist governments in the prevention of human rights violations. Similar to the UN Special Rapporteur on the situation of human rights defenders, the working group responds to and investigates allegations of arbitrary detention submitted by individuals or NGOs. The working group collects information and evaluates the reported human rights violations. If the working group finds a complaint valid, it sends an urgent appeal to the government in question and works for a diplomatic resolution to the arbitrary detention.

The process of filing a complaint is fairly straightforward. Any country is subject to investigation by the working group. The working group has a model questionnaire, which the individual or group making the claim must fill out.¹⁰⁷⁷ Then the working group determines the urgency of the claim. Standard individual complaints involve someone being detained without justification, while urgent appeals involve a detained person at risk of severe harm or death.¹⁰⁷⁸ Standard individual cases should be mailed by post to the working group, while urgent appeals should be sent via email or fax, if possible:¹⁰⁷⁹

Working Group on Arbitrary Detention
c/o Office of the High Commissioner for Human Rights
United Nations Office at Geneva
8-14, avenue de la Paix
1211 Geneva 10, Switzerland
fax: +41 22 9179006
e-mail: wgad@ohchr.org

Relatives of Detained Human Rights Defender Jason Zachary Puracal Enlist Assistance of UN Working Group on Arbitrary Detention

On the morning of November 10, 2010, in San Juan del Sur, Nicaragua, armed police officers raided the home and office of Jason Zachary Puracal, holding him at gunpoint for six hours while conducting their

¹⁰⁷⁶ Redress, "Submission to Special Rapporteur on Human Rights Defenders in the case of Jalila Khamis Koko," accessed Jan. 16, 2014, <http://www.redress.org/case-docket/submission-to-special-rapporteur-on-human-rights-defenders-in-the-case-of-jalila-khami-koko>.

¹⁰⁷⁷ Office of the UN High Commissioner for Human Rights, "Model Questionnaire to be Completed by Persons Alleging Arbitrary Arrest or Detention," Jan. 7, 2014, http://www.ohchr.org/Documents/Issues/Detention/WGADQuestionnaire_en.pdf.

¹⁰⁷⁸ Office of the UN High Commissioner for Human Rights, "Individual Complaints, Urgent Appeals, Deliberations," accessed Jan. 7, 2014, <http://www.ohchr.org/EN/Issues/Detention/Pages/Complaints.aspx>.

¹⁰⁷⁹ Office of the UN High Commissioner for Human Rights, "Contact," accessed Jan. 7, 2014, <http://www.ohchr.org/EN/Issues/Detention/Pages/Contact.aspx>.

search. A U.S. citizen, Puracal was sent immediately to jail where, six months later, he was charged with international drug trafficking, money laundering, and organized crime.¹⁰⁸⁰ He was convicted in August 2011.

The trial violated Puracal’s right to due process and to trial by an impartial tribunal. The man presiding was not a judge appointed in accordance with Nicaraguan law. The defense was denied access to the prosecution’s evidence, and the court excluded as irrelevant much of the defense’s evidence.¹⁰⁸¹ Puracal was sentenced to 22 years in prison.

Puracal experienced inhuman conditions while in detention. He was held in a small concrete cell with seven other men with no access to fresh, drinkable water. The pit that served as their toilet also doubled as a sink and bathing area.

Puracal had “been denied food and water for up to two days at a time.”¹⁰⁸² He was also denied access to medical care despite having asthma, suffering severe burns from attempting to boil water to make it safe for drinking, and developing intestinal problems.¹⁰⁸³

Jason Puracal’s sister brought his case to an attorney, who submitted a petition on Puracal’s behalf to the UN Working Group on Arbitrary Detention in January 2012. The Working Group examined the case and published its decision in July 2012. It found that “the deprivation of liberty of Mr. Jason Puracal is arbitrary,” and consequently recommended that “the Republic of Nicaragua order the immediate release of Mr. Puracal.”¹⁰⁸⁴ On September 14, 2012, Jason Puracal was released from prison and allowed to return to the United States.¹⁰⁸⁵



Jason Zachary Puracal

(ii) Regional Human Rights Mechanisms

The African Commission

The African Commission’s Special Rapporteur on Human Rights Defenders has a mandate to “seek, receive, examine and act upon information on the situation of human rights defenders in Africa.”¹⁰⁸⁶ She occasionally issues press releases and communiqués when a human rights defender is killed or imprisoned. The current Special Rapporteur is Commissioner Mrs. Reine Alapini-Gansou of Benin:

04 B.P. 0608
Cotonou, Bénin
Tel.: (229) 2130 1986 / (229) 2138 4282 (h)

¹⁰⁸⁰ Tolin Law Firm, “The Wrongful Imprisonment of Jason Z. Puracal: Synopsis of of [sic] Facts and Law Pertaining to His Arrest, Detention, and Trial,” accessed Jan. 7, 2014, http://www.injustice-anywhere.org/Synopsis_and_Exhibits_09.09.11.pdf.

¹⁰⁸¹ *Ibid.*

¹⁰⁸² Jared Genser and Janis C. Puracal, “Petition to United Nations Working Group on Arbitrary Detention in the Matter of Jason Zachary Puracal,” <http://www.perseus-strategies.com/news/documents/PetitiontoUNWGAD-JasonPuracal-1-18-12.pdf>.

¹⁰⁸³ *Ibid.*

¹⁰⁸⁴ Human Rights Council Working Group on Arbitrary Detention, “Opinions adopted by the Working Group on Arbitrary Detention of its 63rd Session,” (Apr. 30–May 4, 2012), Document A/HRC/WGAD/2012/10, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/151/99/PDF/G1215199.pdf?OpenElement>.

¹⁰⁸⁵ Free Jason P.Com, accessed Jan. 7, 2014, <http://freejasonp.com/home/>.

¹⁰⁸⁶ African Commission on Human and Peoples’ Rights, “Special Rapporteur on Human Rights Defenders,” accessed Nov. 11, 2013, <http://www.achpr.org/mechanisms/human-rights-defenders/>.

Mobile phone: (229) 2130 1986 / (229) 2138 4282 (h)
alapinireine@yahoo.fr

The African Commission's Special Rapporteur on Prisons and Detention Conditions primarily addresses general national issues. The rapporteurship is, however, also responsible for investigating arbitrary detention allegations. Its mandate is "to examine the situation of persons deprived of their liberty within the territories of States Parties to the African Charter on Human and Peoples' Rights."¹⁰⁸⁷ The current Special Rapporteur is Commissioner Mr. Med S.K. Kagwa of Uganda:

Tel.: (256) 41 348007/8, (256) 772422116
Fax: (256) 41 255261
mskaggwa@yahoo.com
mskaggwa@uhrc.ug

The Inter-American Commission

The IACHR can grant precautionary measures under Article 25 of the Inter-American Commission on Human Rights' Rules of Procedure to help protect human rights defenders and others who are at risk.¹⁰⁸⁸ The IACHR may request that a government adopt precautionary measures "on [the Commission's] own initiative or at the request of a party."¹⁰⁸⁹ The measures need not be related to an individual communication (called a "petition" in the Inter-American system). Precautionary measures are appropriate only for "serious and urgent situations presenting a risk of irreparable harm to persons or to the subject matter of a pending petition or case before the organs of the inter-American system."¹⁰⁹⁰ Approximately "one third of the precautionary measures granted by the Inter-American Commission every year are intended to protect the life and integrity of human rights defenders and justice operators in the region."¹⁰⁹¹

On March 1, 2012, for example, the IACHR granted precautionary measures in favor of a Mexican human rights defender named Estela Ángeles Mondragón. Her request for precautionary measures stated that she was "in a situation of risk, due to threats and acts of harassment and violence against her, which are allegedly a consequence of her involvement in several judicial processes followed in favor of the Indigenous Community Rarámuri de Baqueachí."¹⁰⁹² The IACHR requested that the Government of Mexico adopt measures, in consultation with Mondragón, to guarantee her life and physical integrity. The IACHR also requested that the Government of Mexico "inform the Commission about the actions taken to investigate the facts that led to the adoption of precautionary measures."¹⁰⁹³

A request for precautionary measures must include: "identifying information for the persons proposed as beneficiaries or information that allows them to be determined"; "a detailed and chronological description of the facts that motivate the request and any other available information"; and a "description of the measures of

¹⁰⁸⁷ African Commission on Human and Peoples' Rights, "Special Rapporteur on Prisons and Conditions of Detention, About," accessed Nov. 11, 2013, <http://www.achpr.org/mechanisms/prisons-and-conditions-of-detention/about/>.

¹⁰⁸⁸ Organization of American States, "Rapporteurship on Human Rights Defenders, Precautionary Measures," accessed Oct. 18, 2013, <http://www.oas.org/en/iachr/defenders/protection/precautionary.asp>.

¹⁰⁸⁹ Rules of Procedure of the Inter-American Commission on Human Rights Art. 25(1). Also available online at <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>.

¹⁰⁹⁰ Rules of Procedure of the Inter-American Commission on Human Rights, Art. 25(1), entered into force Aug. 1, 2013, available at <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>.

¹⁰⁹¹ Organization of American States, "Rapporteurship on Human Rights Defenders, Functions," accessed Jan. 15, 2014,

<http://www.oas.org/en/iachr/defenders/mandate/functions.asp>.

¹⁰⁹² Organization of American States, "Precautionary Measures, 2012, PM 208/10 – Estela Angeles Mondragon, Mexico," accessed Jan. 13, 2014, <http://www.oas.org/en/iachr/decisions/precautionary.asp>.

¹⁰⁹³ *Ibid.*

protection requested.”¹⁰⁹⁴ Before adopting precautionary measures, the IACHR usually requests information from the government concerned, unless “the immediacy of the threatened harm admits of no delay.”¹⁰⁹⁵ In deciding on a request, the commission considers: “whether the situation has been brought to the attention of the pertinent authorities or the reasons why it would not have been possible to do so”; “the individual identification of the potential beneficiaries of the precautionary measures or the determination of the group to which they belong or are associated with”; and “the consent of the potential beneficiaries when the request is presented by a third party unless the absence of consent is justified.”¹⁰⁹⁶

The Inter-American Court of Human Rights has the authority to adopt provisional measures “[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons . . . in matters it has under consideration.”¹⁰⁹⁷ If a case has not yet been submitted to the court, it may adopt provisional measures at the request of the Inter-American Commission.¹⁰⁹⁸

The Inter-American Commission on Human Rights has a Rapporteurship on the Rights of Persons Deprived of Liberty. This rapporteur conducts investigations into arbitrary detention in the region. Any person, group, or organization may file a petition alleging arbitrary detention by any Member State of the Organization of American States.¹⁰⁹⁹ The petition should include the personal details of the victim and the petitioner(s), a detailed description of the alleged violations, the names of the authorities responsible, documentation of previous attempts at recourse, and any additional supporting evidence such as witness statements. The Inter-American Commission offers pamphlets online in English, French, Portuguese, and Spanish that further explain the petition process and provide a detailed list of submission requirements.¹¹⁰⁰ A petition form is also available online at https://www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=E.

Inter-American Commission on Human Rights
1889 F St. NW
Washington, DC, 20006
United States
Fax: 1 (202) 458-3992 or 6215
E-mail: cidhdenuncias@oas.org

Europe

The Council of Europe’s Commissioner for Human Rights is responsible for providing “strong and effective protection for human rights defenders by . . . intervening, in the manner the Commissioner deems appropriate, with the competent authorities, in order to assist them in looking for solutions, in accordance with their obligations, to the problems which human rights defenders may face, especially in serious situations where there is a need for urgent action.”¹¹⁰¹ The Commissioner’s jurisdiction in these circumstances is limited to human rights defenders who are located in one of the Council of Europe’s Member States.¹¹⁰² Reports about threats and violations of the rights of human rights defenders may be submitted to:

¹⁰⁹⁴ Rules of Procedure of the Inter-American Commission on Human Rights Art. 25(4).

¹⁰⁹⁵ *Ibid.* 25(5).

¹⁰⁹⁶ *Ibid.* Art. 25(6).

¹⁰⁹⁷ American Convention on Human Rights, Art. 63(2).

¹⁰⁹⁸ *Ibid.*

¹⁰⁹⁹ Organization of American States, “Petition and Case System,” accessed Nov. 7, 2013, https://www.oas.org/es/cidh/docs/folleto/CIDHFolleto_eng.pdf.

¹¹⁰⁰ Organization of American States, “Petition and Case System,” <https://www.oas.org/en/iachr/mandate/petitions.asp>.

¹¹⁰¹ Council of Europe, “Commissioner for Human Rights, Human Rights Defenders,” accessed Jan. 13, 2014,

<http://www.coe.int/en/web/commissioner/human-rights-defenders>.

¹¹⁰² *Ibid.*

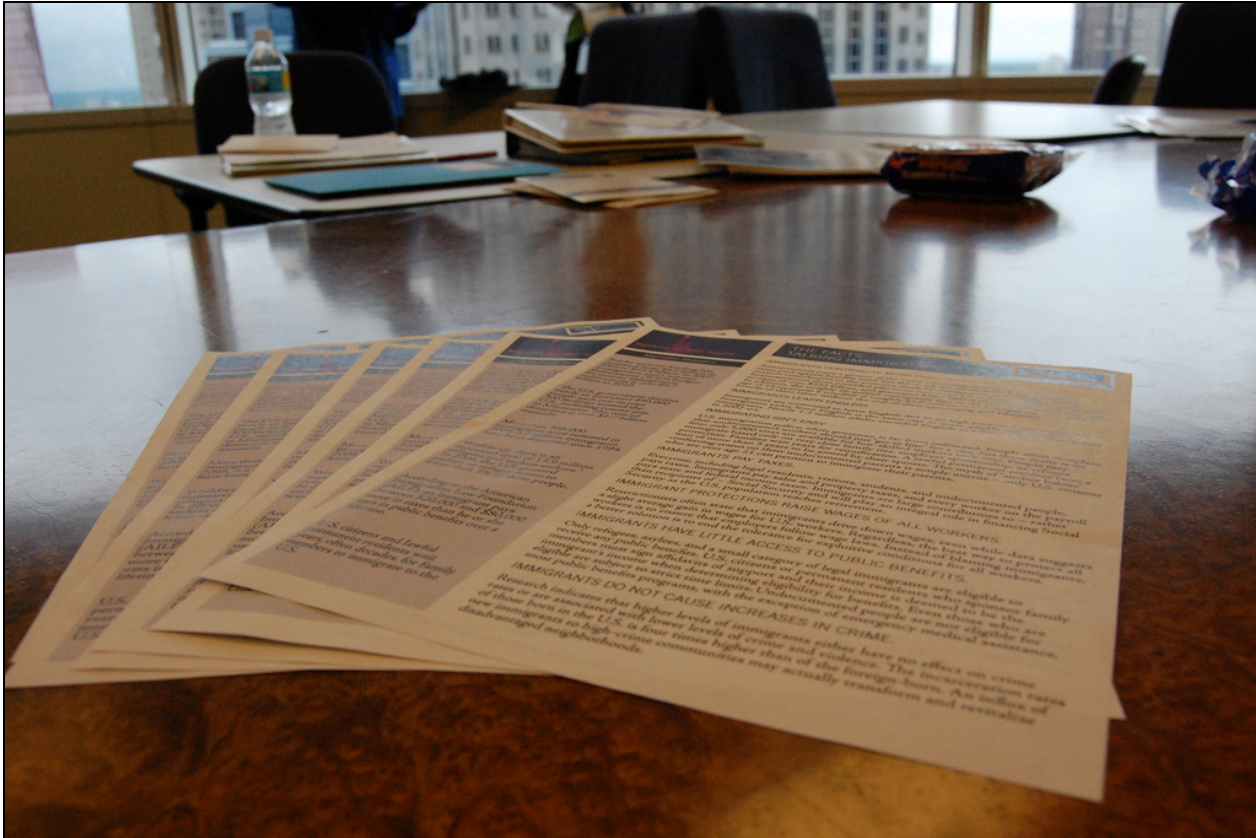
Office of the Commissioner for Human Rights
Human Rights' Defenders Programme
Council of Europe
F-67075 Strasbourg Cedex, FRANCE
+ 33 (0)3 90 21 50 53
commissioner@coe.int

For citizens of the European Union who are raising human rights claims in domestic EU courts, the European Court of Justice uses an urgent preliminary ruling procedure for referrals concerning “the most sensitive issues relating to the area of freedom, security and justice (police and judicial cooperation in civil and criminal matters, as well as policies on border checks, visas, asylum and immigration).”¹¹⁰³ People who file direct claims with the European Court of Justice to challenge the actions of an EU body may apply for interim measures to “seek suspension of the operation of measures which an institution, body, office or agency has adopted and which form the subject-matter of an action, or any other interim order necessary to prevent serious and irreparable damage to a party.”¹¹⁰⁴

¹¹⁰³ Court of Justice of the European Union, “The Court of Justice: Composition, Jurisdiction and Procedures,” 10 (Dec. 2010), http://curia.europa.eu/jcms/upload/docs/application/pdf/2012-05/cjue_en.pdf.

¹¹⁰⁴ Ibid.

Appendix A. Document Storage



Advocates must decide how to store the data they collect during the monitoring process. The following provides an overview of storage techniques by medium. In general, physical data storage media are longer lasting than digital storage media, and are therefore preferable for archival purposes. However, digital storage media provide a more cost-effective way to store, disseminate, and index data. The mix of data storage techniques advocates employ might depend on many factors, including their budget, their planned use for the data, and the level of confidentiality their project requires.

Printed documents and microfiche

Many archivists agree that printed documents are an excellent way to permanently record information, but that digital formats are more suitable for immediate use and dissemination.¹ The estimated storage life of properly maintained documents is 500–1000 years,² and 500 years for microfiche.³ Storing printed documents can be a resource-intensive endeavor and may not be realistic for some projects. Especially for organizations with limited space, it may be difficult to maintain files on site for any length of time. Besides occupying a large amount of space, printed documents are more difficult to index and disseminate than digital formats. Finally, where proper storage conditions are not practical, printed documents are extremely sensitive to damage from fire, theft, and degradation.

¹ Louis Bickford, Patricia Karam, Hassan Mneimneh, and Patrick Pierce, *Documenting Truth* (New York: ICTJ New York, 2009), 20. Also available online at http://www.ictj.org/static/Publications/ICTJ_DAG_DocumentingTruth_pa2009.pdf.

² ASTM D 3290-00, "Standard Specification for Bond and Ledger Papers for Permanent Records," section 3.2.3.2 and Appendix X1.

³ Steve Dalton, "6.1 Microfilm and Microfiche," in *Preservation Leaflets* (Northeast Document Conservation Center), accessed Nov. 16, 2010, <http://www.nedcc.org/resources/leaflets/6Reformatting/01MicrofilmAndMicrofiche.php>.

Like printed documents, microfiche is cumbersome to index and more suitable for archival preservation of data than the convenient dissemination of information. Unlike paper files, microfiche is an exceedingly compact format and therefore very inexpensive to store. Unlike paper files, however, microfiche requires the intervention of an archival professional to convert documents into that medium—as well as the money to do so.

If advocates seek to form a partnership with an academic archive to permanently store a project's data, they might consider converting their files to microfiche as a cost-effective way to preserve data for posterity. Because microfiche medium enables an archival organization to store a large volume of information in a small amount of space, the long-term cost of preserving data is much lower than for paper documents, which require a larger amount of space.

Also, advocates can consider scanning physical documents and saving them in electronic form as a PDF document. They should consider their server capacity and whether the documents will overburden storage space.

Library-style documentation

If advocates choose to store their data in paper form, it will probably be necessary to impose some unifying organizational scheme over the information. The human rights documentation NGO, HURIDOCs, provides a comprehensive set of resources detailing how to document and store information collected in the course of human rights work. The HURIDOCs website features a number of publications, from a systematic way of recording names⁴ to establishing a controlled vocabulary to use in your documentation.⁵

Databases

Databases provide the optimal medium to store, share, and analyze large amounts of information. With proper database software, it is easy to systematically document events using a standardized reporting format. Information entered into a database can be immediately shared with other database users, and the format of the database itself helps ensure that data is collected according to specified parameters. The advantage of using a database—and in particular, the advantage of using an off-the-shelf human rights database—is that the software itself imposes a scheme upon users which enables them to document comprehensively. However, advocates who rely on paper will need to form their own method to document, sort, file, and cross-reference data. Another disadvantage of databases is that they may be excessive depending on an organization's goals: for small projects narrowly focusing on a specific inquiry, it may be unnecessary to set up a database system.

Simple databases can be constructed using software such as Microsoft Access. Also free, off-the-shelf database solutions have been specifically designed for use by human rights organizations: Martus⁶ and OpenEvSys.⁷ Both programs are specifically adapted to human rights projects because they provide a standardized format to record victim, perpetrator and type of abuse.

Martus

Martus is a secure database system that enables human rights organizations to document events. Unlike OpenEvSys, Martus features strong data encryption to protect information. Organizations wishing to use Martus must first install Martus software on local computers. Users input information into the Martus database by using this software. Next, human rights organizations must either set up a Martus server locally or make arrangements

⁴ Human Rights Monitoring and Documentation Series, "How to Record the Names of Persons," accessed Nov. 10, 2010, <http://www.huridocs.org/resource/how-to-record-names-of-persons>.

⁵ Human Rights Data Analysis Group, "Controlled Vocabulary," accessed Nov. 10, 2010, <http://www.huridocs.org/resource/controlled-vocabulary/>.

⁶ The Global Human Rights Abuse Reporting System, "Martus," <http://www.martus.org>.

⁷ HURIDOCs, "OpenEvSys—for Documenting Violations," accessed Jan. 23, 2014, <http://www.huridocs.org/openevsys/>.

with an existing, public Martus server.⁸ After the server infrastructure is established, advocates may upload reports to the central server where they will become readable and searchable by others within an organization. The developers of Martus offer assistance to human rights organizations in both setting up the software and providing initial training to organization workers.

OpenEvSys and Huridocs

HURIDOCS⁹ is an NGO specializing in helping other NGOs develop human rights data management systems. As a part of this mission, HURIDOCS provides both detailed information about how to document human rights violations in addition to developing the OpenEvSys database system.¹⁰

OpenEvSys is largely comparable to Martus, except that it does not use secure encryption technology. As with Martus, OpenEvSys users must establish a server after installing the software on local computers. As the HURIDOCS website cautions, using a complex database system such as OpenEvSys is not a one-size-fits-all solution, and OpenEvSys may not be suitable for smaller human rights projects. Because it provides comprehensive support for human rights documentation, however, an organization can implement a data management solution appropriate for its needs.¹¹

IT SOS: Forming partnerships with other organizations

Smaller organizations may lack the resources and expertise necessary to implement a complex digital data management scheme. In this case, advocates might find it helpful to seek the help of an outside organization in setting up their IT infrastructure. Beyond consulting with other human rights NGOs, advocates might form partnerships with private firms in with extensive IT departments, academic institutions or other non-profit organizations.

Free online storage media

The proliferation of free, online data storage services offered over the Internet presents a low-cost vehicle for human rights organizations to save and disseminate data. With the advent of Flickr, Facebook, and other online networking and data sharing forums, there are numerous tools for publishing information. As with other electronic storage media, however, advocates might consider both the level of security required for their project and their long term plans for the data before selecting an option.

The advantages of online storage media are legion. First, online storage media present a free, turnkey solution for advocates' data storage and sharing needs. With free online services, there is a minimum of work and expense entailed in getting a project off the ground. Second, online storage media provide an easy way to share information among colleagues both in the office and in the field. Through online storage services, data collected remotely may be quickly saved and relayed to the central office for examination. Finally, online storage media require neither additional physical storage space nor the expense of additional employees. Particularly for smaller organizations with limited budgets and non-existent IT staffs, online storage media may provide an attractive means to store photographs, text documents, sound files, and videos.

While free online storage media are both cheap and convenient, they do present several drawbacks of which advocates should be aware. First, they offer limited data security in comparison with other electronic storage media. While most services allow users to password protect the data they post to their accounts, the security of

⁸ Martus, "Martus Servers," accessed Jan. 23, 2014, <http://www.martus.org/products/servers.shtm>. (As of this writing, the Martus web site lists three public Martus servers.)

⁹ HURIDOCS, "Home Page," accessed Jan. 23, 2014, <http://www.huridocs.org>.

¹⁰ HURIDOCS, "How to record the names of persons," accessed Jan. 23, 2014, <http://www.huridocs.org/resource/how-to-record-names-of-persons/>.

¹¹ HURIDOCS, "OpenEvsys—for Documenting Violations," *supra* note 7.

this information is much weaker than encrypted private databases such as Martus.¹² Before advocates use free online storage media, they might consider the level of confidentiality their project necessitates. If advocates anticipate quickly publishing all of the data they collect, online storage may be a viable option. However, if the data is being prepared in contemplation of litigation, advocates might consider a more secure alternative.

Free online storage media also present a second problem. Like all forms of electronic data storage, online storage is not an archival medium. If an organization wishes to preserve data for posterity, it should consider using an alternative medium. Of course, advocates need not choose one medium to the total exclusion of the other: rather, advocates might initially store data digitally and then later preserve the information in an archival format.

Forming a retention policy

Advocates eventually face the question of how long they should retain the data they collect. The answer to this question depends on a number of factors, including the resources available to advocates for storing the data and advocates' ability to form partnerships with archival organizations to permanently preserve the data. While there are several rules of thumb to guide the development of an organization's data management scheme—advocates should, for example, make best efforts to preserve original source materials—there is no single answer to how long advocates should keep documents.

Ad hoc organizations and the long-term preservation of data

One facet of this inquiry is the capability of advocates to maintain files over the long term. If an organization is an established, ongoing concern with dedicated office space and permanent employees, then maintaining extensive files in-house remains a viable possibility. However, if an organization is an ad hoc group convened solely to produce a single report, then maintaining files over any length of time will require partnership with an outside organization. For example, though the Greensboro Truth and Reconciliation Commission disbanded after publishing its final report in 2006, its web site is still being maintained by a local Internet Service Provider.¹³ Copies of the Commission's final report are being held by several academic libraries.¹⁴ Thus, though the Commission no longer exists, its work continues to inform the public because of the Commission's partnership with outside organizations.

Maintaining confidences

In the field of human rights work, NGOs often collect information on extremely sensitive topics. There are many reasons why the information a person provides could be harmful. Very real legal or extra-legal consequences may flow from the disclosure of confidential data to third parties. Thus, when advocates design an organization's data management scheme, they must weigh how heavily they wish to emphasize the protection of respondent confidentiality.

Maintaining respondent confidentiality has several aspects. Confidential data must be protected against security breaches. Before implementing an organization's data management system, advocates should ask themselves several pertinent questions: How is the data stored? Who has access to it? What precautions have been taken against the disclosure of confidential information? For projects entailing the use of physical data, information

¹² Martus, "Frequently Asked Questions," accessed Jan. 23, 2014, <http://www.martus.org/concept/faqs.shtml>. (Martus employs an easy-to-use encryption system to protect data available on its website.)

¹³ Greensboro Truth and Reconciliation Commission, "Greensboro Truth and Reconciliation Commission Homepage," accessed Nov. 10, 2010, <http://www.greensborotrc.org/index.php>.

¹⁴ Greensboro Truth and Reconciliation Commission, *Greensboro Truth and Community Reconciliation Project and other Public Bodies on May 25, 2006* (Greensboro, NC: Greensboro Truth and Reconciliation Commission, 2006). Also available online at <http://www.worldcat.org/title/final-report-examination-of-the-context-causes-sequence-and-consequence-of-the-events-of-november-3-1979-presented-to-the-residents-of-greensboro-the-city-the-greensboro-truth-and-community-reconciliation-project-and-other-public-bodies-on-may-25-2006/>.

security is a relatively straightforward affair. However, where data is digitized and placed on a network, advocates may have to consult an information technology specialist to adequately protect the confidentiality of a project's data.

To share or not to share? The historian's dilemma

In light of the concerns advocates may face regarding the confidentiality of the data they collect, one further issue is whether an organization plans to share the data it collects with an archival organization. The dilemma is thus: perhaps that an advocate has promised his respondent total confidentiality, and the advocate is thus ethically bound to prevent harm from coming to his respondent. However, the best way for an advocate to allow future generations to remember an event is by preserving data collected from respondents, and in particular, preserving the first hand accounts of victims. Thus, advocates may need to contemplate how they will navigate the dual imperatives of protecting their respondents and preserving the memory of an event. How will advocates balance the need to protect respondents and respect their wishes while also preserving the memory of an event? This is not an easy question to answer, and advocates should carefully consider this issue before making representations to an interviewee about how his information will be stored.

The importance of primary sources

Primary sources such as interview notes, interview transcripts, observation notes, and other forms of evidence advocates collect, should be preserved to the extent possible. This is a standard archival principle to which, for example, human rights documentation NGO HURIDOCS subscribes.¹⁵ Interviews with subjects, field notes, photographic documentation, and other primary sources are worth preserving after publication for several reasons. First, original sources provide credibility to final reports advocates publish. Without original sources on hand to substantiate the claims made in final reports, advocate publications would be subject to attack from adversaries. Additionally, original sources provide a means for posterity to understand a particular event. While a final report may contain a useful synthesis of the data it has collected, the original data itself permits future generations to develop a deeper understanding of an event. Without the preservation of original source materials, historians will be unable to re-examine the event advocates seek to document.

Web sources: The limited memory of the Internet

In many cases, it will not be necessary to preserve secondary sources because they will be readily obtainable by readers of a report. One exception to this rule is for data obtained from web sites. Because the Internet is such a highly dynamic medium, content often appears and disappears with little notice. Though some projects exist to archive the ever-changing content of the world wide web,¹⁶ it is generally impossible to view content which has been removed from the web. For this reason, advocates might consider retaining copies of secondary sources which they cite in their final report. As with primary sources, the principal reason to preserve secondary sources is to maintain the credibility of a final report. Because the web sites advocates cite are less likely to be of lasting historical importance than the first-hand accounts they collect as primary sources, it may not be necessary to keep them for very long beyond the publication of the report.

The value of partnering with outside archival organizations

Many human rights organizations are not equipped to perform the task of long-term archival storage of primary sources. If advocates have collected data which might be of interest to posterity, they might consider making arrangements to store the data with existing human rights archives and libraries. One useful source for finding an archival repository for original sources is the Center for Research Libraries Human Rights Archives and

¹⁵ Manuel Guzman and Bert Verstappen, "What is Monitoring," vol. 1 of *Human Rights Monitoring and Documentation* (Versoix, Switzerland: HURIDOCS 2003), 18.

¹⁶ Internet Archive, "Wayback Machine," accessed Jan. 23, 2014, <http://www.archive.org/web/web.php> (as an example).

Documentation Program (HRADP).¹⁷ This program works specifically to find proper archival storage places for human rights documents. By contacting HRADP, advocates might be able to find a permanent storage solution for their original sources.

¹⁷ Center for Research Libraries, "HRADP," accessed Nov. 10, 2010, <http://www.crl.edu/grn/hradp>.

Appendix B. Report Layout

BUILDING a **WELCOMING COMMUNITY**

The Advocates for Human Rights
April 2014



Because every person matters.

After completing the writing portion of a report, the next step of the process is to design the layout. If resources allow, authors may be able to hire a graphic designer to complete this task for you. Other organizations, however, may need to use in-house resources to design the layout on their own. These basic guidelines can facilitate the layout of the report and achieve a final, professional document.

Software

There are numerous software options available to assist authors in the report layout process. It is important to select and use a single software option throughout your report writing and formatting. Instead of using only a word processor, an office suite will enable you to use spreadsheets, charts and slideshow tools in addition to the word processor. Microsoft Office, Lotus Word Pro, and Corel WordPerfect Suite are some integrated options among which you can decide. The advocate should choose software with which he or she is already familiar, as it will save time re-learning the basics.¹

Page Layout

Before beginning the document layout process, advocates should have a clear picture of what it will look like. It is important to remain aware of who the audience is for the report. Advocates will need to consider the overall document design and any set formatting requirements to the report they are creating; formatting requirements will limit the author's influence over the report's design. They also have the option of working with formatting options or templates that come with the word processor. Overall, important considerations include whether the document is oriented vertically or horizontally, single-sided or double-sided, single-spaced or double-spaced, what the margin-size will be, where the page numbers will be placed and if the report will have a header and/or footer. All word processors have simple commands to assist most of these tasks.

Double-sided pages: Creating a double-sided document is slightly more complicated. In a double-sided document, the text is on the front and back of each page; the right and left page formats need to be mirror images of one another. This means that if the numbering choice is for the top, outer-edge of the page, the even-numbers will need to be on the left and the odd-numbers will need to be on the right.²

Breaks: It is important to keep in mind where the page will begin and end. If the author finds that he or she wants a page to end sooner or begin at another area, the author has the option of inserting a page break. Also, authors should keep in mind typesetting glitches, such as *orphans* and *widows*. Orphans are known as either a paragraph opening line that appears at the bottom of the page or a stranded word that ends the paragraph. Widows are known as ending lines or paragraphs that fall onto the following page. Orphans and widows are not aesthetically pleasing, because they separate lines from the remainder of their text or they create excess white space.³

Fonts

Since reports are formal documents, the font style should be conservative. A universally accepted standard font is Times New Roman with the use of 12 point size. A serif font and size similar to Times is also acceptable. Reports should not have more than three different fonts within the same document. Instead of changing fonts to highlight different aspects of the report, the author should use the functions of italics, bold, or a larger size. Headings are often bolded, underlined or numbered in reports while quotes are often separated from the text through a uniform

¹ Dr. Robert Kelly, "Score a Higher Grade with a Professionally Laid Out Report or Thesis," accessed Nov. 11, 2010, <http://lorien.ncl.ac.uk/ming/dept/tips/writing/layout.htm>.

² Ibid.

³ Jacci Howard Bear, "Save the Widows and Orphans," accessed Jan. 23, 2014, <http://desktoppub.about.com/od/typelayout/a/widowsorphans.htm>.

indent or by use of italics and/or bold. Advocates can use these functions for the report header and footer, as well.⁴

Tables

Word processors allow the insertion of basic tables into documents. If there are more complex tables for insertion, advocates should consider using an integrated office suite with spreadsheet capability. Spreadsheet tables can be imported into document simply by using the insert function and can furthermore be linked to the document. Links are made by inserting them into the document (using Object Linking and Embedding format), so that when changes are made in the spreadsheet, they are made in the document, as well. Word processors usually have further details on how to create links in their help sections or online.⁵

Practitioner's tip: Advocates should take precautionary steps when using multiple authors working on different computer systems. Different production means and styles can create challenges when merging documents into one master version.

Advocates should instruct writers on what versions of software to use, as well as other logistical guidelines, such as footnote style and headings and paragraph format.

Charts

Spreadsheets also enable the creation of charts that can be imported and linked into the document in the same manner as tables. When creating a chart, advocates should choose an appropriate model for the data. Some options include column and bar charts, line and area charts, pie charts or a Venn diagram.

Column and bar charts are used to show simple comparison data at a given point in time. The height of the bar/column represents the measured value. Line and area charts use data that is plotted in two dimensions and represent changes or trends over time. Line graphs are the most common graph and link together the data points you plot. Pie charts are used to compare parts to a whole; each part represents a percentage of the total data set. Lastly, a Venn diagram shows overlaps between sets of data and is best used to make comparisons or contrasts with data. Each data set is represented by the circle and the degree of overlap is visually demonstrated by the degree of the circles overlap. Percentages are also commonly used with Venn diagrams.⁶

For both tables and charts, be sure to label consistently and fully. In formal documents, all images, charts, drawings and diagrams are referred to as figures. Use the abbreviation "Fig." to introduce the table or chart and include the chapter number and image number following to delineate its location. For example, if you are talking about the sixth table in chapter 4, it should be labeled, "Fig. 4.6." Additionally, use legends when necessary with your tables and charts. Legends can be helpful because they list the variables that are used within the chart and provide a visual representation of them. Therefore, all of the data can be identified clearly on the table or chart.⁷

Graphics

Authors should also consider using graphics, diagrams, maps, and pictures to enhance presentation, convey data, and illustrate the narrative. Using text boxes can be an effective way of highlighting a particularly important point, recommendation or quote. Descriptive captions can help supplement the information. When using photos

⁴ Kelly, "Score a Higher Grade with a Professionally Laid Out Report or Thesis," *supra* note 1.

⁵ About.com, "Embedding and Linking to Excel Files in Word Documents," accessed Jan. 23, 2014, <http://wordprocessing.about.com/od/workingwithotherprograms/l/blexcellink.htm>; Dr. Robert Kelly, "Score a Higher Grade with a Professionally Laid Out Report or Thesis," *supra* note 1.

⁶ Mind Tools Ltd., "Charts and Graphs," accessed Jan. 23, 2014, http://www.mindtools.com/pages/article/Charts_and_Diagrams.htm.

⁷ Kelly, "Score a Higher Grade with a Professionally Laid Out Report or Thesis," *supra* note 1.

and others' work, authors should keep in mind copyright rules and obtain written permission or pay the requisite usage fee if they are not the original creators of the work.⁸

Graphics are one of the most difficult items to incorporate into reports. Unless using images selected from clip-art, graphics can be difficult to acquire. To create graphics, advocates can either scan images from photographs or publications, make the needed graphics in a drawing program or sketch the graphics by hand in black and white and scan them into the computer. Again, advocates should remain aware of copyright laws when scanning published images or pictures and check the copyright or terms of use. Scanned images need to be touched up with graphics editing software before they are of printing quality. Adobe Photoshop is a good option for high quality editing. If the organization does not have access to this software, other options include Paint Shop Pro or Adobe PhotoDeluxe. When creating graphics, advocates should export the graphic file in a format that their word processors will recognize.⁹

Final Tips

Advocates should strive to maintain consistency throughout the report, particularly when using hierarchical sections, such as titles, subtitles, headers and subheads; and multiple levels of bullets. They should also aim for consistent bullet types and font sizes for titles and subtitles. Proofreading the entire document thoroughly, using spell and grammar check as a back-up, will aid readability. Advocates should be cautioned against depending on spell and grammar check to correct all of the mistakes within the report. Before sending the document to print, an additional person should proofread the document one final time for spelling, grammar and punctuation errors.¹⁰

⁸ See Chapter 4: Additional Monitoring Tools.

⁹ Kelly, "Score a Higher Grade with a Professionally Laid Out Report or Thesis," *supra* note 1.


¹⁰ *Ibid.*

Appendix C. Best Practices: Using Popular Social Media Platforms for Effective Human Rights Advocacy

The Advocates Post

The Advocates for Human Rights works globally to fight injustice, rebuild the human rights movement.

“I have a bullet in my foot from trying to vote!”



By Michele Garnett McKenzie

I'm sitting in my office, catching up with a former client. A member of the political opposition who fled Cameroon and sought asylum nearly a decade ago, she had stopped by to show me her new U.S. passport. Our talk turned to the November elections—she was so proud to finally be an American citizen and to be voting for the first time in the United States.

But when I mentioned that Minnesotans will be deciding whether to amend the constitution to require government-issued photo identification to vote, she became angry. I didn't have to frame the issue for her. I didn't have to give her any background about the Voting Rights Act or explain that this is a voter restriction proposal that threatens to disenfranchise thousands of Minnesotans. Before I could even tell her that The Advocates opposes the measure her eyes flashed and her voice became stern.

“You have no idea how precious the right to vote is,” she told me. “I have a bullet in my foot from trying to vote!”

Blogs

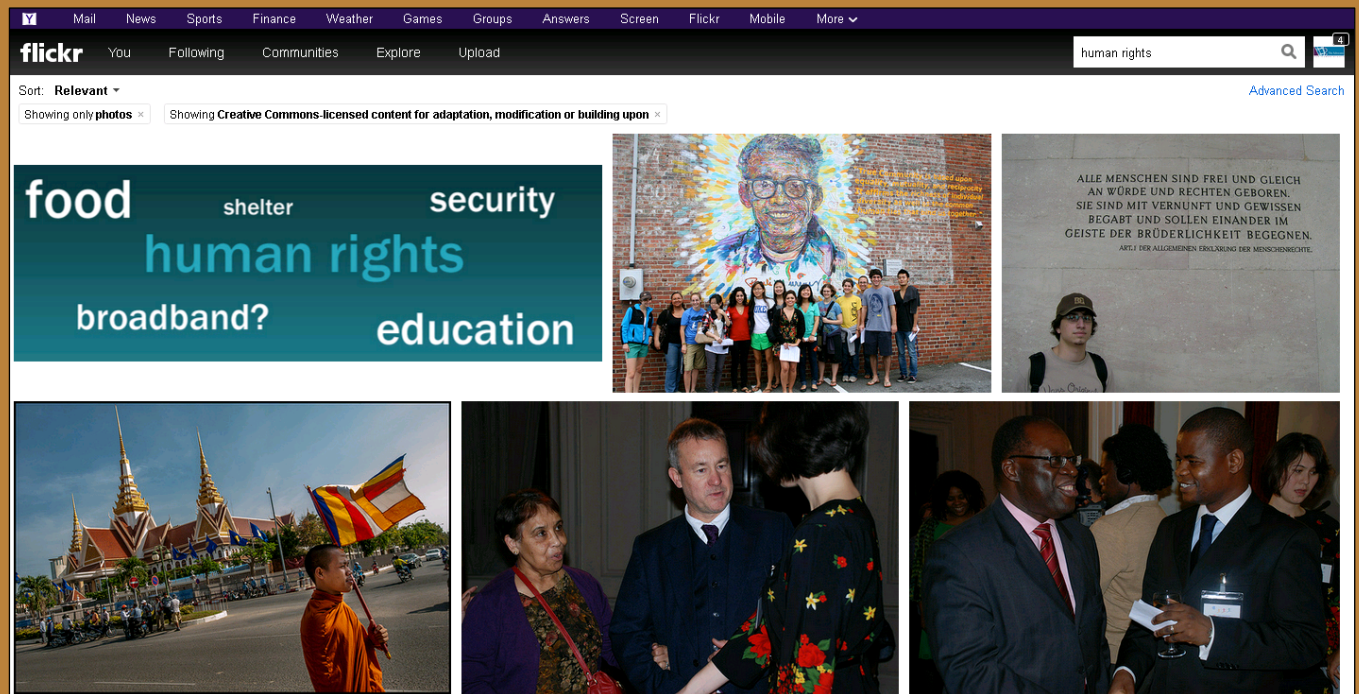
Blogs are a highly visual medium, so it's good to dedicate some attention to planning out photographs and other graphics used in blog posts. Effective blog posts often lead with engaging personal stories and conclude with an action item for the reader to get involved. Blog posts can also be a good networking tool; a blog post can cross-reference and link to another post by an ally covering the same issue or event. Advocacy-oriented blog posts on human rights topics can be particularly effective when they draw readers in by beginning with the story of a person personally affected by the topic, as demonstrated above. Nonprofit Tech for Good offers content ideas for blog posts: <http://www.nptechforgood.com/2013/03/06/11-blog-content-ideas-for-nonprofits-2/>.

Blog posts should be brief and include heading and block quotes to make it easier for the reader to identify the main points. If an organization has a lot to say on a topic, it should consider doing a series of shorter posts, rather than one long one.

Practitioner’s Tip: Using Photo Sharing Sites to Find Images for Social Media Advocacy

Creative commons photo sharing sites like flickr.com can be a great source of images for blogs and other social media. Users who find an image they’d like to use should click the “Request to license” link near the license on the photo page. If there’s no “Request to license” link, users should consult the author’s profile to see whether they grant a general license, or contact the member directly via FlickrMail by hovering the mouse over the author’s “buddy icon” and clicking the arrow to open the “person menu.” Give the owner of the photo as much information as possible about the photo and how it would be used.

In many cases, Flickr users issue a general Creative Commons license for others to use their photos. Flickr allows users to do an advanced search that limits results to Creative Commons-licensed content. Another option is an advanced Google image search (http://www.google.com/advanced_image_search) limited to usage rights that are “free to use or share.” A third option is Wikimedia Commons (http://commons.wikimedia.org/wiki/Main_Page), a database of more than 20 million freely usable media files. Even if a source is in the public domain or has a Creative Commons License, advocates should be sure to cite the photo source as the author requests and to include URL to the original image, as well as information about or a link to any particular Creative Commons license that applies to the work.¹



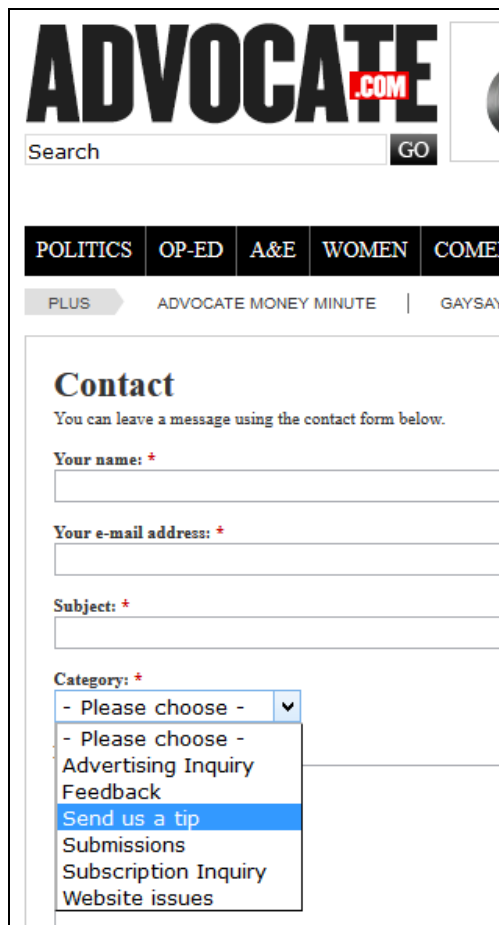
1. Getting the word out

Organizations should update their blog regularly. But groups cannot rely on a blog alone as a definitive form of public advocacy; readers may not check blogs frequently even if they support the organization that maintains the

¹ Flickr, “General Flickr Questions,” accessed Jan. 23, 2014, <http://www.flickr.com/help/general/#157>.

blog. Advocates who maintain a blog must share the blog address and links to specific blog posts with the public so people know they can read the blog for information. As with organizational websites, the public will not visit the blog as a source of human rights information unless they know about it. Email alerts and other social media can generate blog traffic. Most blog platforms allow authors to identify keywords to describe each blog post. These keywords can help drive traffic to the blog by increasing the likelihood that a post will turn up as a result when the keywords are used as a search term. Advocates should identify high-traffic blogs and other online news sources that may be interested in a particular blog post, and then reach out to those sources to alert them about the post and ask that they help get the word out.

Some local news organizations “reblog” interesting posts; advocates should make sure that their blog is on the radar of these media outlets, and should contact them directly whenever they publish a particularly timely or thought-provoking post. Many online news sources look for tips from readers as a way to share content, so advocates can and should tip them off about new and timely blog posts:



2. Moderating comments

Allowing unfettered public comments on a blog can be problematic. Individuals may post biased, insensitive, incendiary, or uninformed comments in response to a blog post, and spam comments can be rampant. The organization should have a policy for moderating such comments and promptly removing them. It is a good practice to clearly state the comment moderation policy in the blog. For example, The Advocates for Human Rights uses the following comment policy statement: Please comment to join our community of human rights

advocates. The Advocates for Human Rights produces this blog in a spirit of thoughtful communication. Comments are open, but are moderated.

Ten Simple Tips to Create Powerful Blog Posts, from Blogtips:²

1. Make the title short, catchy, and clear.
2. Sculpt the paragraph. The first paragraph is critical to convincing the reader to read the entire post.
3. Tell a story to help the reader relate to the issue on a personal level and to keep the reader engaged.
4. Use pictures. Blogs are a highly visual medium.
5. Make it short.
6. Use simple, concise, accurate language.
7. Use short paragraphs.
8. Use hyperlinks to reference other sources, blogs, etc.
9. Round up the blog post to make the reader feel like the story is complete.
10. Have fun!

3. Event-based blogging

Organizations can create a specialized blogging strategy around important events. In the lead-up to the event, groups should: (1) identify any ally organizations that are also planning to cover the event; (2) make writing assignments for all individuals who will draft blog posts for the organizational blog and establish deadlines for submitting and reviewing drafts; (3) publish a post providing some background and context for the event, along with preparations and expectations.

Examples of Event-based Blogging

1. The Advocates Post provides some background about an event and the blogger's expectation and fears about what is to come:



² Blogtips, "Writing Good Blog Posts: The Art of Seduction," Apr. 14, 2013, <http://www.blogtips.org/how-to-write-good-blogposts/>.

2. During the event, participants should publish posts explaining their feelings and expectations, what they did to prepare, and how things are going so far. For an example of this kind of a post, visit:

<http://theadvocatespost.org/2012/12/03/working-together-for-womens-human-rights-in-moldova/>.

3. Soon after the event, a participant should publish a blog post describing how things went, personal reactions, and any next steps. For an example of this kind of post, visit:

<http://theadvocatespost.org/2013/03/11/uns-commission-on-the-status-of-women-annual-meeting-inspiring/>

Burmese Bloggers Report Human Rights Violations During “Saffron Revolution”

In September 2007, the people of Burma rose up against the country’s military regime. At the time, the government tightly controlled the country’s media, making it difficult for outsiders to get information about the situation on the ground. But the movement that came to be known as the “Saffron Revolution” succeeded in getting the world’s attention. Bloggers and other digital activists flooded the internet with photos and videos of monks leading large, peaceful demonstrations against the government. Citizen-journalists used their mobile phones to take photos and videos, and then they secretly uploaded them to the internet from internet cafes, or sent digital files across the border to be uploaded. When the government used violence against the peaceful protesters, activists gave the outside world a glimpse of what was happening inside the country. The social media campaign prompted activists around the world to join the democratic struggle by holding protests and demonstrations in their own countries. Governments around the world issued strong statements against the military regime.³

Facebook

After a group has created an organizational page on Facebook, it can start creating and sharing content to gain followers and to engage its intended audience.⁴ Facebook offers a comprehensive guide called *Building your Presence with Facebook Pages: A Guide for Causes and Nonprofits*, available here: <https://fb-public.app.box.com/s/8dxyv66biabfnesvr3jj>.

Types of content to share on Facebook:

- **Status updates:** Post brief original updates or share posts from other individuals or pages.
- **Videos:** Embed YouTube and Vimeo clips and share them through status updates.
- **Photos:** Facebook is the largest photo-sharing site on the web and posts with images receive three times more exposure than other posts in a NewsFeed. To increase visibility, advocates should upload, share, and tag photos.⁵
- **Links:** Share content from the web by copying and pasting the link into a status update. If the preview appears below the draft status update, the URL can be deleted from the status update and replaced with brief introductory text.

³ Mriduhl Chowdhury, “The Role of the Internet in Burma’s Saffron Revolution,” Scribd (Sept. 2008) <http://www.scribd.com/doc/47535906/The-Role-of-the-Internet-in-Burmas-Saffron-Revolution>.

⁴ Socialbrite, “6 Simple Steps to Create a Facebook Page that just Works,” accessed Jan. 23, 2014, <http://www.socialbrite.org/2012/09/19/steps-to-create-a-facebook-page-that-works/>.

⁵ Socialbrite, “15 Ways to Enhance your Facebook Influence,” accessed Jan. 24, 2014, <http://www.socialbrite.org/2011/02/08/15-ways-to-enhance-your-facebook-influence/>.

- **Interacting:** Groups can tag individuals, organizations, and companies in status updates by typing “@” followed by their name. These tags allow the post to appear in the news feeds of fans and friends of that individual’s or group’s page. Status updates that ask questions can be a good way to start conversations.

Best practices for advocacy on Facebook:

- **Timing:** Post content in the mornings and evenings when users are spending more time on the site. Test out different times to see what time your audience interacts most with the content you share. The 18–24 year old demographic is most active and engages most with pages between 9 and 10 pm. Post content on weekends, too.⁶
- **Quality over quantity:** Be selective about what you post. Post less on Facebook than you would on Twitter, perhaps with one meaningful post once every other day.
- **Keep it short:** Posts between 100 and 250 characters are interacted with 60% more than posts over 250 characters.
- **Be interactive:** Opinion-driven and “fill-in-the-blank” questions will result in 90% more engagement than an average post.⁷
- **Be creative and visual:** Post videos, check in with Facebook Places, and share different types of content. Research shows that visual posts receive the most likes, comments, and shares. Multimedia content increases engagement and time spent on a group’s page.⁸
- **Be patient and consistent.** It will take time to grow a group’s Facebook network and improve visibility. 96% of fans and followers won’t return to a group’s page, so posting frequently is the only way to reach them.⁹

Tips for Increasing Engagement on Facebook

- 27 Ways to Increase Engagement on your Facebook Page, by John Hayden for Network for Good:
<http://www.slideshare.net/johnhaydon/27-ways-to-increase-engagement-on-your-facebook-page-12759591>
- Post Your Way to Facebook Success, from Facebook Marketing for Small Business:
<http://www.pagemodo.com/blog/post-facebook-success-infographic>

YouTube and Vimeo

After setting up a channel on YouTube or Vimeo, groups can start creating video and uploading it to their channels. It is easy for groups to get started with video messaging, and they can create video directly from a computer, tablet, or mobile phone camera.

YouTube has a Nonprofit Program to help organizations’ channels gain more exposure. It allows groups to:

- Add a button for donations within a channel or video;
- Live-stream events free of charge; and
- Ask for YouTube video volunteers.

YouTube also offers a Call-to-Action Overlay to allow groups to control the words and links that overlay a video, which can include a call to action, a request for donations, a link to a website, or additional content.⁸ For more information about Call-to-Action Overlays, consult

<https://support.google.com/youtube/answer/150471?hl=en>.

Groups must apply for YouTube’s Nonprofit Program. Applications are available here:
https://www.youtube.com/ngo_apply?action_us=1.

⁶ Pamela Vaughn, “Demystifying How Facebook’s EdgeRank Algorithm Works,” Apr. 23, 2013, http://blog.hubspot.com/understanding-facebook-edgerank-algorithm-infographic_

⁷ Ibid.

⁸ Pagemodo, “Post Your Way to Facebook Success,” accessed Jan. 23, 2014, <http://www.pagemodo.com/blog/post-facebook-success-infographic>.

⁹ Vaughn, “Demystifying How Facebook’s EdgeRank Algorithm Works,” *supra* note 6.

For directions on how to set up a Call-to-Action Overlay, watch this tutorial:
<https://www.youtube.com/watch?v=GFuuVMQoh7M>.

Types of content to share on YouTube and Vimeo

Consider videos that tell a story, explain a concept or promotion, include a contest, update viewers, or thank donors. Be sure to have a clearly defined audience in mind when creating a video. It is helpful to make viewers feel like they can contribute to change by including a call to action in the clip. YouTube recommends that NGOs:

- Post compelling, short, and genuine digital stories;
- Partner with other organizations; and
- Embed video onto other social media platforms.¹⁰

Video storytelling is a tactic that can empower victims of human rights violations, mobilize action, and promote community reconciliation.¹¹ Video is an excellent tool for advocacy campaigns targeting people who may not have strong literacy skills.

Resources for Using Video as a Component of a Social media Advocacy Strategy

- Video Volunteers connects groups with video volunteers and trains advocates on how to create effective video-based advocacy campaigns: <http://www.videovolunteers.org/>.
- WITNESS, in partnership with human rights organizations and activists around the world, has developed a comprehensive toolkit for video advocacy: <http://witness.org/how-to>.
- WITNESS maintains The Hub, an action and resource center for groups interested in incorporating video into their advocacy. Hub members can set up campaign pages and share them with others on the website: <http://hub.witness.org/en/toolkit>.
- For video recording and editing advice, consult Kaltura Open Source Video and Make Internet TV: <http://corp.kaltura.com/>; <http://makeinternettv.org/>.

Video Can Be a Critical Component of an Effective Social Media Advocacy Strategy¹²

350.org created an animated video so that language would not be a barrier in its campaign to educate and inspire people to organize climate change events around the world. The group used YouTube to upload the video; shared it on its website, Facebook, Twitter, and Myspace; and created a Facebook event for the clip. The group sent DVDs of the video to areas with limited internet access.



¹⁰ Jessica Haswell, "How to Maximize Your Nonprofit's Impact with YouTube," accessed Jan. 23, 2013, <http://www.socialbrite.org/2010/08/06/how-to-maximize-your-nonprofit%E2%80%99s-impact-with-youtube/>.

¹¹ New Tactics in Human Rights, "Video Advocacy," accessed Jan. 23, 2014, <http://www.newtactics.org/video-advocacy/video-advocacy>.

Twitter

Twitter can be an effective advocacy tool. For example, users with many followers can generate a lot of interest and support through their tweets. Users can “retweet” (RT) other people’s tweets to their own followers as a show of support and as a way to spread the message.

Hashtags

Twitter users who engage in advocacy often use hashtags and other organizations’ Twitter handles in their tweets as a way to increase the visibility of their tweets. A hashtag is simply the “#” symbol at the beginning of a key word or phrase in the tweet. The hashtag makes it easier for Twitter users to find the tweet in a search, such as this search for the hashtag #deathpenalty:



Twitter handles

A Twitter handle is the “@” symbol followed by the name the person or organization uses on Twitter—typically a shortened version of the person’s or organization’s full name.

¹² Tactical Technology Collective, “10 Tactics for Turning Technology Into Action: Tactic 3: Visualize Your Message,” accessed Jan. 30, 2014, <https://archive.informationactivism.org/en/tactic3casestudy>.



If a tweet uses a person's or group's Twitter handle (this practice is called an "@mention"), they receive a notification in the Mentions section of their @Connect page. An @mention should encourage the person or group to retweet the message to their followers and respond via another tweet. Groups should carefully monitor and respond to their @mentions. When groups receive a positive @mention, they should RT and then reply with another tweet thanking the original tweeter and continuing the dialogue. A group with a smaller social media presence may want to use @mentions of more prominent organizations to encourage this type of dialogue and engagement.

Twitter users who follow each other can also send each other private direct messages (DMs). For more information on Twitter's features, visit <https://support.twitter.com/>.

URL Shorteners

Because tweets are limited to 140 characters, Twitter users who want to share URLs often need to use a "URL shortener." Many URLs shorten automatically in Twitter. The shortened links use catchy country domains like Libya (.ly), Colombia (.co), Montenegro (.me), Tonga (.to), and Greenland (.gl), for example. URL shortener websites, such as bitly.com, tinyURL.com, goo.gl, and ow.ly, also provide analytics about the number and sources of clicks on the shortened link. URL shorteners are convenient, but they can also be used to mask undesirable or harmful websites and other links. Some email providers and websites block shortened domains in order to reduce the risk of spam and illicit internet activities. Some governments are rumored to block certain shortened domains. And on one occasion, the Government of Libya shut down a link shortening service for violating that country's pornography laws.¹³

Using Twitter for advocacy

Socialbrite offers a broad range of advice and examples for NGOs using Twitter for advocacy:

¹³ *Tough.ly/treated: Shortened Web Links are Convenient, but They Come at a Price*, The Economist, Oct. 14, 2010, <http://www.economist.com/node/17249654>.

- 24 Best Practices for Nonprofits Using Twitter: <http://www.socialbrite.org/2011/10/03/24-best-practices-for-nonprofits-using-twitter/>;
- 8 Nonprofit Twitter Superstars: <http://www.socialbrite.org/2011/09/26/8-nonprofit-twitter-superstars/>;
- 12-Step Guide on How to Live-Tweet an Event: <http://www.socialbrite.org/2011/09/30/12-step-guide-on-how-to-live-tweet-an-event/>;
- How to Get More Followers on Twitter: <http://www.socialbrite.org/2009/09/25/how-to-get-more-followers-on-twitter/>; and
- 13 Ways to Get Your Blog Post Retweeted: <http://www.socialbrite.org/2010/01/21/13-ways-to-get-your-blog-posts-retweeted/>.

Visit <http://www.socialbrite.org/category/twitter-2/> for more advice.

Types of Content to Share on Twitter

Twitter is a great vehicle for sharing a group's perspective on breaking events and for driving traffic to a group's website content or blog posts.



RTs can demonstrate and build alliances with individuals and organizations that share the group's perspective. A group can follow up on a RT by replying to the original tweet to initiate a dialogue. By adding a comment in front of a RT, a Twitter user can show enthusiasm for or criticize another Twitter user:



Best Practices for Advocacy on Twitter

Robin Stephenson, a field organizer for Bread for the World, offers ten tips for nonprofits on Twitter:¹⁴

¹⁴ Socialbrite, "10 Rules for How Nonprofits Should Use Twitter," accessed Jan. 23, 2014, <http://www.socialbrite.org/2011/04/08/10-rules-for-how-nonprofits-should-use-twitter/>.

1. If a Twitter user follows an organization, the organization should follow the user back, creating a two-way relationship between the organization and its Twitter audience. (But groups should first verify that the user is not an automated “bot” by reading through some of the user’s tweets.)
2. Develop relationships by interacting with and “retweeting” (RT) followers when appropriate.
3. Interact with followers by asking questions and commenting back to create a conversation.
4. Thank users when they RT.
5. Pay attention to breaking news and trending topics; engage in Twitter conversations, if relevant.
6. Be authentic and personal.
7. Partner and communicate with other organizations.
8. Strategize. Clarify targeted audiences, decide on the number and types of daily tweets to post, and set goals.
9. Keep it short. A RT may not happen if the user has to shorten the tweet.
10. Experiment and keep track of which tweets get the most attention.

Live Tweeting

Live tweeting is a good way to promote interaction and engagement at public events. Minnesota Public Radio’s Wits program, for example, uses Twitter to interact with the audience before the performance begins. A group staging an event can use Twitter to solicit immediate feedback, take questions, and share the event with people who are unable to attend in person.

If several allied groups are going to attend an event, they should coordinate a live-tweeting plan:

- Follow fellow live-tweeters and other allies who have an interest in the event.
- Establish and distribute a list of shared hashtags with fellow live-tweeters and other allies.
- Tweet plans to live-tweet, sharing the relevant hashtags and using @mention to identify other live-tweeters and allies.
- Send direct Twitter messages to targeted allies to let them know about the live tweet and to request RTs.
- Tweet a count-down to the event, requesting RTs and follows.
- Tweet links to more permanent social media (blogs, Facebook pages) that are covering the event.
- Have on-hand a list of allies and their Twitter handles for @mentions during the event.

Tweets during a live event can include brief quotes, summaries of lines of questioning, subjective evaluations of how things are going, questions to people who aren’t attending the event in person, and comments about the live-tweet’s enthusiastic reception on Twitter. If a message is too long for a single tweet, it can be parsed out into multiple tweets, each ending with, for example, 1/3, 2/3, or 3/3, to show that the tweet is “to be continued” across three tweets. Live tweeters should re-tweet generously and reply promptly with thanks to any re-tweeters. After the event, groups should thank new followers and any particularly enthusiastic re-tweeters.

Amnesty International Twitter Campaign Presses U.S. State Department to Respond to Human Rights Violations in Bahrain

On June 15, 2011, Amnesty International launched a call to action on Twitter urging the U.S. State Department to protest the trial of civilians in military courts in Bahrain. Amnesty's tweet was retweeted ("RTed") around the world throughout the day and by the end of the day the State Department directly responded and started tweeting about the situation.

AmnestyInternational @amnesty

Help Bahraini activists and doctors at risk. Join our @Twitter action today! <http://owl.li/5igUQ> #bahrain #feb14

120 RETWEETS 8 FAVORITES

8:44 AM - 15 Jun 11

AmnestyInternational @amnesty

Dear @statedept, pls protest unfair trial of #bahrain activists <http://bit.ly/lXEzpH> #feb14

62 RETWEETS

8:05 AM - 15 Jun 11

Human Rights @ State @State_DRL

I urge #Bahrain to abide by its commitments to transparent judicial proceedings conducted in full accordance with the law <http://ow.ly/5iKf2>

87 RETWEETS 1 FAVORITE

4:00 PM - 15 Jun 11

The image shows a screenshot of a tweet from the official Twitter account of the U.S. Department of State's Human Rights office. The tweet is set against a brown background. The tweet text reads: "@Amnesty, @HRW, @HumanRights1st, et al - We remain concerned about the treatment of those people in detention in #Bahrain. #HumanRights". Below the text are icons for Reply, Retweet, Favorite, and More. The tweet has 30 retweets and 2 favorites, with a row of profile pictures of users who interacted with it. The timestamp at the bottom of the tweet is "9:40 AM - 16 Jun 11".

Human Rights @ State 
@State_DRL 

@Amnesty, @HRW, @HumanRights1st, et al - We remain concerned about the treatment of those people in detention in #Bahrain. #HumanRights

 Reply  Retweet  Favorite  More

30 RETWEETS **2** FAVORITES 

9:40 AM - 16 Jun 11

Appendix D. Tips for Navigating Social Media Platforms

Blogs

Blogs are self-publishing platforms, so an organization can decide the content and tone. It is easy to start a blog on sites like Blogger and Wordpress. Wordpress is open source and can be downloaded free of charge, so an organization can host the blog on the organization's own server. Hosting the blog on the organization's server means that the blog can be a subdomain (e.g., blog.organizationname.org) or a page of the primary domain (e.g., organizationname.org/blog). Blog hosting sites offer detailed guidance and tutorials for setting up and running a blog.

The Advocates Post

The Advocates for Human Rights works locally and globally to fight injustice, restore peace, save lives and build the human rights movement.

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"Why doesn't she leave?"

Leslie Morgan Steiner, a Harvard graduate, journalist, and best selling author, met "Connor" on the New York City subway when she was 22. He sat next to her on the ...

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Dennis McGuire's Execution: A Real-Life — or Real-Death — Example of Cruel and Inhuman Punishment

Ohio officials put Dennis McGuire to death this week using a new two-drug combination that had never been tested. Ohio's experiment with the new two-drug injection is a real-life — ...

[Continue reading →](#)

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Facebook

Facebook is a social networking site in which users post status updates, photos and videos, and links to news and other websites. A user can "friend" other people on Facebook and can "follow" or "like" organizations, businesses, celebrities, and even interest groups that exist only on Facebook. Organizations can post updates, photos, video, and links to relevant news on the internet, and can schedule events and issue electronic invitations to followers. A user's news feed includes recent posts from the user's friends and the groups the user likes or follows. Users can "like" these posts, comment on them, or share them with the member's other friends.

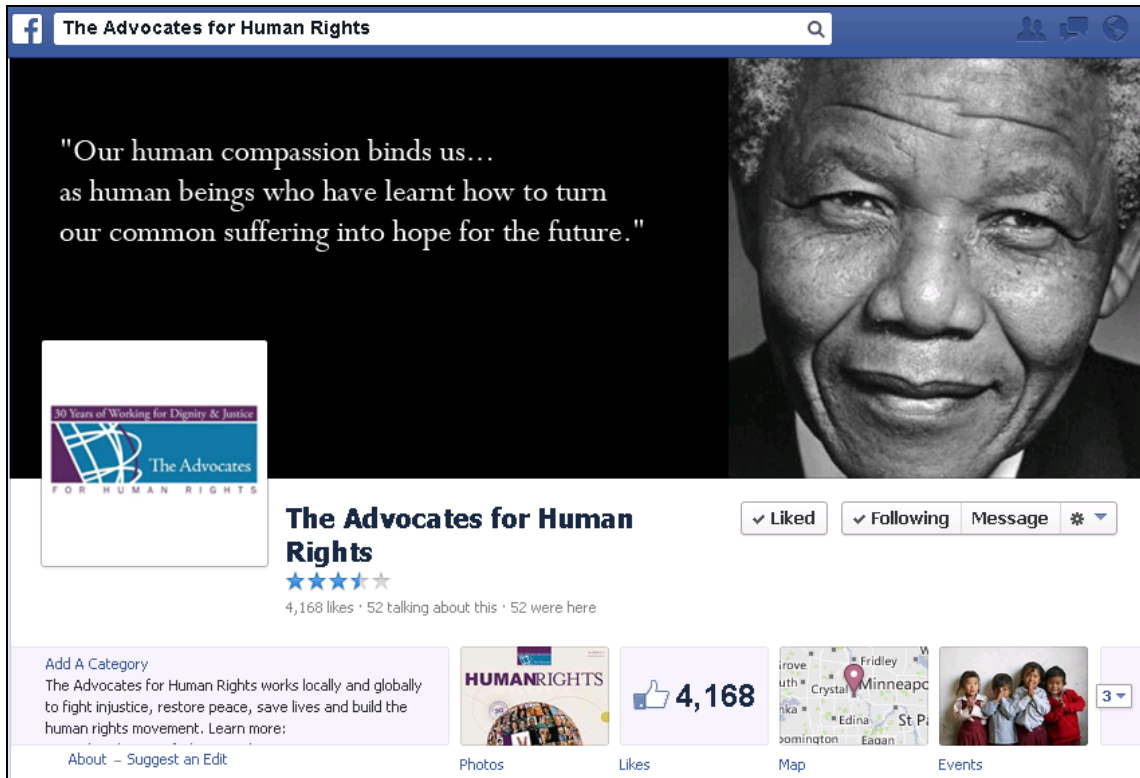
1. Creating a Facebook page

For step-by-step instructions to create a Facebook page, visit: <https://www.facebook.com/pages/create/>.

Organizations should treat their Facebook page as they would treat the organization's website. The large **cover photo** across the top of the organization's Facebook page is a great platform for branding the organization with a

high-quality photo that represents the organization. Organizations should consider including a quote or call-to-action in the picture. The square **profile picture** is an organization's Facebook calling card and should be recognizable and remain fairly consistent to aid users' visual association with the organization's Facebook page.

Organizations should fill out all of the sections of the Facebook page as they would for a website. The "About" section should include a brief history of the organization, a mission statement, contact information, links to the group's website if it has one, links to the organization's other social media sites, as well as a call to action. Organizations can use Facebook milestones, which allow you to add dates and photos to tell stories of your organization's history and accomplishments.



Creating a Cover Photo for Facebook, Twitter, and Google+

Some social media platforms encourage organizations to create cover photos to build their brand. There are many online tools to help advocates generate cover images for these platforms. Consult DMAD and Design Shack for free templates:

<http://dmad.com/social-headers>

<http://designshack.net/articles/graphics/how-to-design-the-perfect-twitter-header-image/>.

Hongkiat identifies some creative cover photos from Facebook: <http://www.hongkiat.com/blog/creative-facebook-timeline-covers/>.

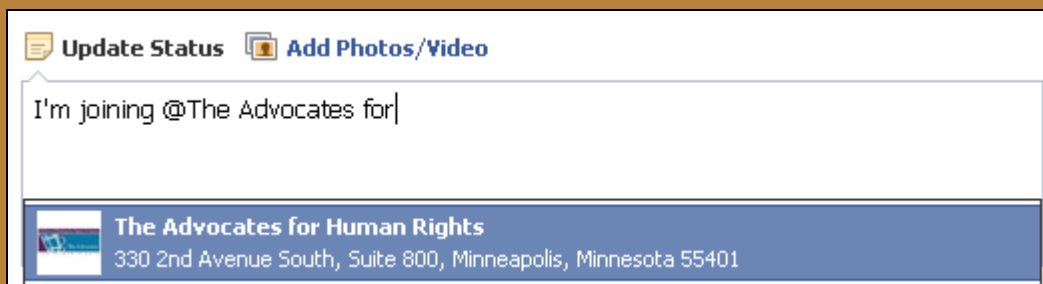
2. Promoting an event on Facebook

Groups can use the Facebook Event feature to promote organizational events and engage with supporters. Creating a Facebook event generates a separate landing page with a list of attendees, an image, and information

about the event. Groups can promote events on their Facebook page by posting the link to the event on the group's main page, on other social media platforms, and by linking to the event page through email. Groups can directly invite Facebook followers to the event. Groups should consider engaging staff, fans, and followers by asking them to generate conversations and interest prior to the event. A Facebook advertisement for the event page can complement (but not replace) these efforts. After the event, the group should share photos, stories, and thanks with attendees.¹ Facebook offers a tutorial on how to create and edit events: <https://www.facebook.com/help/events>.

Linking to an Organization in a Status Update

Facebook users can create a live link to an organization's Facebook page when they create a status update. To do so, they should first type the character "@" immediately followed by the name of the organization. The name of the organization should appear in a list below the status update box.



The Facebook user can then click on the organization's name in the list, and it will appear in the status update as a live link:



By using live links in status updates, a group's supporters and allies can create more visibility for the organization and drive traffic to the organization's Facebook page.

3. Advertising on Facebook

Facebook advertising allows organizations with a presence on Facebook to promote the group's page or a specific post. An ad campaign can help a group increase the size of its follower base, engage with followers, reach out to the friends of followers, or promote a specific advocacy campaign.² In purchasing an ad campaign, a group can set a budget cap for each day and can set a campaign schedule to determine the number of days the ad will run. For more information and a tutorial, visit: <https://www.facebook.com/advertising/>.

¹ Socialbrite, "How to Use Facebook to Pump Up Your Nonprofit's Events," accessed Jan. 23, 2014, <http://www.socialbrite.org/2012/07/23/how-to-use-facebook-to-pump-up-your-nonprofits-events/>.

² Socialbrite, "How to Promote Your Facebook Page with Facebook Ads," accessed Jan. 23, 2014, <http://www.socialbrite.org/2012/05/16/how-to-promote-your-facebook-page-with-facebook-ads/>.

Twitter

Twitter is a free social media networking and micro-blogging platform that allows users to communicate publicly in brief messages of up to 140 characters. These messages are called “tweets.” Tweets may include links to websites or photos. Tweets are generally public, but they are usually visible directly only to the users who “follow” the person or group making the tweet, or to users who are searching for words that appear in the tweet.

1. Creating a Twitter account

For instructions on how to create a Twitter account, visit Twitip: <http://www.twitip.com/how-to-set-up-a-twitter-account/> or go directly to <https://twitter.com/signup>. Twitter is similar to Facebook, in that organizations should treat their Twitter page as they would treat the organization’s website. The large **cover photo** in the background of the organization’s Twitter page is a great platform for branding the organization with a high-quality photo that represents the organization. The square **profile photo** is an organization’s Twitter calling card and should be recognizable and remain fairly consistent to aid users’ visual association with the organization’s tweets.



2. Advertising on Twitter

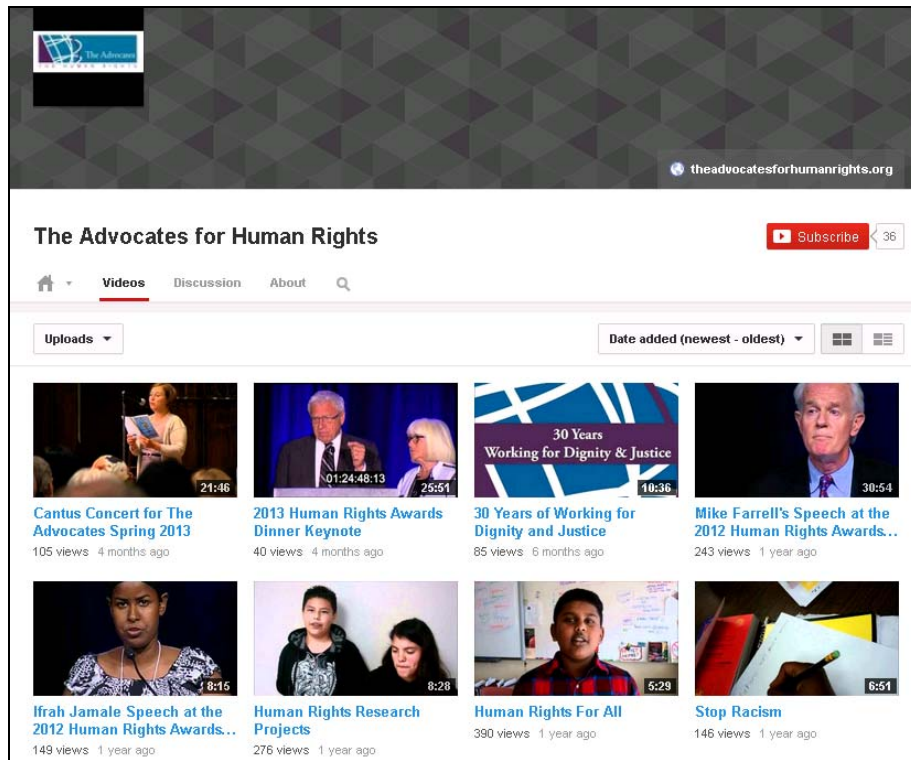
Groups can increase their visibility by promoting individual tweets or promoting their accounts. These “promotions” mean that the group’s tweets may appear at the top of search results, in the “Who to follow” box, or in the Twitter news feeds of non-followers. For more information, consult <https://business.twitter.com/>.



YouTube and Vimeo

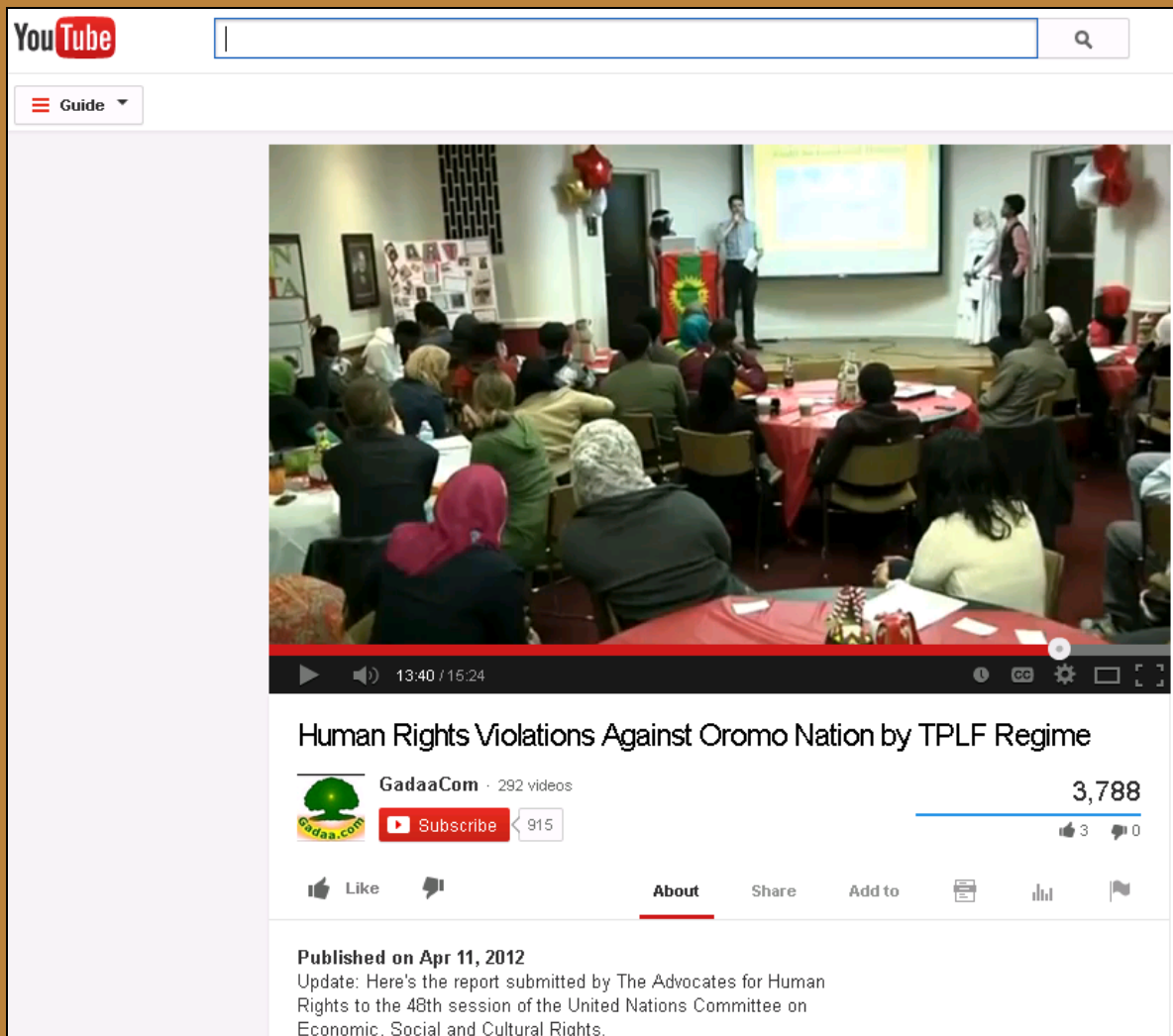
YouTube and Vimeo are social media platforms that allows users around the world to discover, watch, and share originally created videos. Groups and individuals can set up and customize their own channels, and they can also

subscribe to channels that others have created. Groups often use YouTube and Vimeo to upload videos so that they can use a URL share the video content via other social media or email.



YouTube Can Multiply a Group's Audience for Advocacy Events

Groups can use YouTube to generate additional publicity for public education and advocacy events they hold in the community. For example, in April 2012, the Oromo Student Union at the University of Minnesota hosted an Oromia Awareness Day. They invited Tony Beasley, a volunteer attorney who wrote a report to the UN Committee on Economic, Social and Cultural Rights about human rights violations against the Oromo people in Ethiopia. Approximately 100 students attended the presentation in person, but the student group also videotaped Mr. Beasley's presentation and made it available to Gadaa.com, an Oromo diaspora news website. Gadaa.com posted the video of Mr. Beasley's presentation on its YouTube channel and on its website, generating over 3,000 additional views of his talk.



The screenshot shows a YouTube video player interface. At the top, the YouTube logo is on the left, and a search bar is on the right. Below the logo is a 'Guide' dropdown menu. The main video area displays a scene from a presentation: a man in a light blue shirt stands on a stage, speaking into a microphone. Behind him is a large projection screen showing a slide with text and a logo. The audience, seen from behind, is seated at round tables covered with red tablecloths. The video player controls at the bottom show a play button, a volume icon, a progress bar at 13:40 / 15:24, and icons for closed captions, settings, and full screen. Below the video, the title 'Human Rights Violations Against Oromo Nation by TPLF Regime' is displayed. The channel name 'GadaaCom' is shown with a green tree logo and '292 videos'. The view count '3,788' is on the right. A 'Subscribe' button with '915' subscribers is visible. Below the video are icons for 'Like', 'About', 'Share', 'Add to', and other options. A description box at the bottom states: 'Published on Apr 11, 2012. Update: Here's the report submitted by The Advocates for Human Rights to the 48th session of the United Nations Committee on Economic, Social and Cultural Rights.'

1. Creating a YouTube channel

For getting started, YouTube offers a “basics” guide: <https://support.google.com/youtube/answer/3309389>. To set up and customize a YouTube channel, YouTube provides instructions here:

<https://support.google.com/youtube/topic/16549?rd=2>. After a group has created an account and channel, the

group can upload videos by clicking the Upload link at the top of the page and selecting the video file. Groups may want to consult online resources for optimizing their videos for uploading:

<https://support.google.com/youtube/answer/1722171?hl=en>.

2. Vimeo

Vimeo—a play on the words “video” and “me,” and an anagram of the word “movie”—is a YouTube competitor with an emphasis on longer videos including movies and short films. To set up a Vimeo account, visit <https://vimeo.com/join>.

YouTube or Vimeo?

YouTube is a more popular video-sharing platform with more than 800 million unique visitors per month and 72 hours of content uploaded each minute.³ Vimeo supporters suggest that the following considerations may make Vimeo a more appropriate platform for some social media users:⁴

- With approximately 70 million unique visitors per month, Vimeo is a more intimate social media community than YouTube, and its users are more likely to be film enthusiasts who will offer thoughtful, constructive comments in response to a video. YouTube users, on the other hand, often use abusive language when they leave comments.
- Because Vimeo has less of a popular following, Vimeo is less likely to have non-substantive videos.
- Vimeo has a cleaner layout with a larger video frame.
- YouTube videos often have banner advertisements or require users to watch a 30-second advertisement before the video begins. Vimeo does not have advertisements.
- Vimeo allows users to upload password-protected videos and to share those videos with friends, without friends needing to create their own Vimeo accounts.

³ Eric Larson, “5 Reasons to Choose Vimeo Instead of YouTube,” (May 30, 2013), <http://mashable.com/2013/05/30/vimeo-over-youtube/>.

⁴ Ibid.

SAMPLE PRESS RELEASE**FOR IMMEDIATE RELEASE**

Michele Garnett McKenzie
 Advocacy Director
 (w) 612-341-3302, ext. 117
 mmckenzie@advrights.org

Robin Phillips
 Executive Director
 (w) 612-341-3302, ext. 109
 rphillips@advrights.org

Rights Group Reports Continuing Human Rights Violations by Ethiopia; Urges Robust Review of Ethiopia's Record by United Nations Human Rights Council

Minneapolis (December 7, 2009) – As the United Nations Human Rights Council prepares to review Ethiopia's compliance with its human rights obligations, a new report by The Advocates for Human Rights highlights a continuing and pervasive pattern of human rights violations in Ethiopia based on documentation from the Oromo diaspora.

The report, *Human Rights in Ethiopia: Through the Eyes of the Oromo Diaspora*, documents the experiences in Ethiopia of members of the Oromo diaspora throughout three successive political regimes. "No one interviewed for this report was untouched by past or continuing human rights violations in Ethiopia," said Robin Phillips, executive director of The Advocates for Human Rights. "The long arm of human rights violations continues to reach directly into diaspora communities, including the Oromo," Phillips noted, pointing to diaspora members' belief that e-mail communication to Ethiopia was read by the Ethiopian government, that telephone conversations were overheard, and that the Ethiopian government monitored the activities of diaspora members.

Oromos interviewed for the report also described decades of human rights violations in Ethiopia, including arbitrary arrest, incommunicado detention, torture, and extra-judicial executions. Reports of widespread surveillance and interference with rights to freedom of association, assembly, expression, conscience, and the press were pervasive. Oromos reported that the current Ethiopian government's federal system has served to isolate ethnic communities, including the Oromo, leaving them even more vulnerable to human rights violations.

The United Nations Human Rights Council reviews Ethiopia's human rights record on December 9. The United States, which joined the Human Rights Council earlier this year, will participate in the review of Ethiopia. The Advocates' key concerns were submitted to the Human Rights Council earlier this year. The Advocates calls for a robust review of Ethiopia's record when it appears before the Council. More information relating to the United Nations' review of Ethiopia, including The Advocates' submission to the Council, can be found at www.ohchr.org/EN/HRBodies/UPR/PAGES/ETSession6.aspx.

The Minneapolis-based law firm of Robins, Kaplan, Miller & Ciresi L.L.P. and a team of professional volunteers participated in the research, fact-finding, and drafting of the report.

The Advocates for Human Rights is a volunteer-based non-profit organization dedicated to the promotion and protection of internationally recognized human rights. The Advocates investigates and exposes human rights violations; provides representation to immigrants and refugees who have suffered human rights abuses; trains and assists groups that protect human rights; and works through education and advocacy to engage the public, policymakers, and children about human rights issues. The Advocates for Human Rights holds Special Consultative Status with the United Nations.

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Appendix F. Diaspora Ministries

Country	Diaspora Ministry/Office	Website	Contact Information
Albania	Ministry of Foreign Affairs	http://www.mfa.gov.al/index.php	Bulevardi "Gjergj Fishta" Nr.6, Tiranë, Shqipëri; Tel: +355 4 2364090 (ext 79205); Fax: +355 4 2362084/5; info@mfa.gov.al
Armenia	Ministry of Diaspora	http://www.mindiaspora.am/en/index	Deputy Minister: Vahe Jilavyan; 26/1 Vazgen Sargsyan St., Yerevan, Armenia, 0010; Phone: (374 10) 58-56-01; ministry@mindiaspora.am
Azerbaijan	State Committee on Work with Diaspora of Azerbaijan Republic	www.diaspora.gov.az	Chairman: Nazim Ibrahimov; The Republic of Azerbaijan, Baku, Samed Vurgun Str. 24; Phone: +994-12-493-10-54; Fax: +994-12-498-61-87; info@diaspora.gov.az
Bangladesh	Ministry of Expatriates' Welfare and Overseas Employment	http://probashi.gov.bd/	71-72, Old Elephant Road, Eskaton Garden, Dhaka; Tel: (880-2) 933-9097, (880-2) 934-9837; Fax: (880-2) 933-0766; js@probashi.gov.bd
Brazil	Ministry of Foreign Affairs	http://www.itamaraty.gov.br/	
Chile	Ministry of Foreign Affairs--Dirección para la Comunidad de Chilenos en el Exterior - DICOEX	http://www.chilesomostodos.gov.cl/ique-es-dicoex.html	Phone: 56-2-28274495
China	Ministry of Foreign Affairs	http://www.fmprc.gov.cn/eng/	No. 2, Chaoyangmen Nandajie, Chaoyang District, Beijing, 100701; Phone: 86-10-65961114

Country	Diaspora Ministry/Office	Website	Contact Information
Colombia	Ministry of Foreign Affairs	http://www.cancilleria.gov.co/footer/join-us/introduction	Switch: (57-1) 3814000; Fax: (57-1) 3814747; contactenos@cancilleria.gov.co
Dominica	Ministry of Employment, Trade, Industry and Diaspora Affairs	http://dominica.gov.dm/employment-trade-industry-and-diaspora-affairs	Ministry of Employment, Trade, Industry and Diaspora Affairs, 4th Floor, Financial Centre, Kennedy Avenue, Roseau; Tel: (767) 266 3276; Fax: (767) 448 5200; foreignaffairs@dominica.gov.dm
Egypt	Ministry of Manpower and Emigration	http://www.emigration.gov.eg/AboutUs/Mission.aspx	96 Ahmed Orabi St. - Mohandeseen Embaba - Cairo - Arab Republic of Egypt; Fax: (202) 33035332; Operator: (202) 33034438 - 33036437; egyptiansabroad@mome.gov.eg
El Salvador	Ministry of Foreign Affairs	http://www.rree.gob.sv/index.php?/table/servicios/#	PBX (503) 2231 1000
Ethiopia	Ministry of Foreign Affairs	http://www.mfa.gov.et/diaspora/	Ministry of Foreign Affairs, Diaspora Engagement Affairs General Directorate, P. O. Box 393, Addis Ababa, Ethiopia; Tel: Tele +251 115 51 38 84, +251 115 51 73 45; Fax: +251 115 51 43 00; mfa.community@ethionet.et
Gambia	Ministry of Foreign Affairs, International Cooperation, and Gambians Abroad	http://www.mofa.gov.gm/	Tel: (220) 422 3578; Fax: (220) 422 7917; info@mofa.gov.gm

Country	Diaspora Ministry/Office	Website	Contact Information
Georgia	The Office of the State Minister of Georgia for Diaspora Issues	http://www.diaspora.gov.ge/index.php?sec_id=72&lang_id=ENG	Chancellery of the Government of Georgia, 7 Ingorokva Street, Tbilisi, 0134 Georgia; Tel: +995 32 293 17 42; info@diaspora.gov.ge
Ghana	Ministry of Foreign Affairs and Regional Integration	http://www.ghanaembassy.or.jp/attachm ent/MINISTRY%20OF%20FOREIGN%20AFFAIRS.pdf	Hon. Hanna S. Tetteh; P.O. Box M53, Accra, Ghana; Tel: +233 21 664008; Fax: +233 21 665363; ghmfa00@ghana.com
Ghana	Diaspora Support Unit	http://www.ghanaiandiaspora.com/	Ministry of Foreign Affairs and Regional Integration Airport Junction, Accra-Ghana; Tel: +233 0 509-679-286, +233 0 509-679-287; : angela.odai@ghanaiandiaspora.com
Greece	Hellenic Republic-Ministry of Foreign Affairs	http://www.mfa.gr/en/	1st Vas. Sofias Av., 106 71 Athens, Greece Tel: +30 210 368 1000; Fax: +30 210 368 1717
Guyana	Ministry of Foreign Affairs -- Guyana Diaspora Project	http://www.guydproject.iom.int/about-mgd/	
Haiti	Ministry of Haitians Living Abroad	http://www.mhave.gouv.ht/	Rue Prosper No. 8 Bourdon, Musseau Port-au-Prince, Haiti HT 6140; Tel: (509) 2227-7354; info@mhave.gouv.ht
India	Ministry of Overseas Indian Affairs	http://moia.gov.in/	Tel: +91-11-24197900; Fax: +91-11-24197919; info@moia.nic.in
Indonesia	Indonesian Diaspora Foundation	http://www.indonesiandiasporafoundation.org/index.php	Indonesian Ambassador to the United States: Dino Pati Djatal

Country	Diaspora Ministry/Office	Website	Contact Information
Israel	Ministry of Foreign Affairs	http://www.mfa.gov.il	9 Yitzhak Rabin Blvd., Kiryat Ben-Gurion, Jerusalem 9103001; Phone: 972-2-5303111; Fax: 972-2-5303367
Jamaica	Jamaica Diaspora	http://www.jamaicandiaspora.gov.jm/	Diaspora and Consular Affairs Department, Ministry of Foreign Affairs and Foreign Trade, 21 Dominica Drive, Kingston 5 Jamaica W.I.; Tel: 876-926 4220-8; Fax: 876-929 2260
Kenya	Ministry of Foreign Affairs	http://www.mfa.go.ke/	Old Treasury Building, Harambee Avenue, P.O Box 30551 - 00100 Nairobi, Kenya; +254-20-318888
Kosovo	Ministry of Foreign Affairs	http://www.mfa-ks.net/index.php?page=2,106	
Lebanon	Ministry of Foreign Affairs and Emigrants	http://www.foreign.gov.lb/	
Liberia	Ministry of Foreign Affairs	http://www.mofa.gov.lr/index.php	
Mali	High Council of Malians Abroad	http://www.maliens-exterieur.gouv.ml/index.php/diaspora1	Tel: (+223) 20 23 50 37; Fax: (+223) 20 23 50 37; hcme2012@yahoo.fr
Mexico	Institute for Mexicans Abroad	http://www.ime.gob.mx/	Juarez Ave # 20, Col. Centro, Del. Cuauhtémoc. CP Federal District. 06010; Tel: (55) 3686-5100
Morocco	Ministry of Moroccans Living Abroad	http://www.marocainsdumonde.gov.ma/accueil.aspx	Tel: +212 (0) 537 73 75 73 ; Fax: +212 (0) 537 77 00 06; info@mcmre.gov.ma

Country	Diaspora Ministry/Office	Website	Contact Information
Nigeria	House Committee on Diaspora Affairs	http://www.diasporacommittee.com	House Committee on Diaspora Affairs, National Assembly Complex, Room #438, Three Arms Zone, Abuja FCT, Nigeria; Phone: +234 806 950 8160, +234 706 933 2819; admin@diasporacommittee.com
Peru	Ministry of Foreign Affairs	http://www.rree.gob.pe/elministerio/Paginas/Home.aspx	Switchboard: (511) 204-2400
Philippines	Commission on Filipinos Overseas (CFO)	http://www.cfo.gov.ph/	Tel: (02) 552-4700; info@cfo.gov.ph
Poland	Ministry of Foreign Affairs	http://www.msz.gov.pl/en/ministry/	Ministry of Foreign Affairs of the Republic of Poland, Al. J. Ch. Szucha 23, 00-580 Warsaw; Tel: +48 22 523 90 00; e-konsulat@msz.gov.pl
Romania	Ministry of Foreign Affairs	http://www.mae.ro/	
Rwanda	Diaspora General Directorate under the Ministry of Foreign affairs and Cooperation	http://www.rwandandiaspora.gov.rw/	Tel: (250) 252599138; diasporaunit@minaffet.gov.rw ; info@rwandandiaspora.gov.rw
Senegal	Ministry of Senegalese Abroad	http://www.senex.gouv.sn/	Building Administratif, 7ème étage 36026 Dakar Fann +33 849 76 88 sambayomb.thiam@gouv.sn
Serbia	Migration Policy, Diaspora and Social Security Agreements Department	http://www.mfa.gov.rs/en/consular-affairs/diaspora/diaspora-general-information	381 (11) 3068-435; omd@mfa.rs

Country	Diaspora Ministry/Office	Website	Contact Information
Sierra Leone	Office of Diaspora Affairs	http://www.diasporaaffairs.gov.sl/	8 Wesley Street, Freetown, Sierra Leone; info@diasporaaffairs.gov.sl
Slovenia	The Government Office for Slovenes Abroad	www.uszs.gov.si/en/	Komenskega 11, 1000 Ljubljana +386 1 230 80 00 urad.slovenci@gov.si
Somalia	Ministry of Diaspora and Investments	http://modai.org/	info@modai.org
Sri Lanka	Ministry of External Affairs	http://www.mea.gov.lk/	Tel: 0094 (0) 11 2325371; Fax: 0094 (0) 11 2446091; cypher@mea.gov.lk
Syria	Syrian Arab Republic Ministry of Foreign Affairs and Expatriates	http://www.mofa.gov.sy/cweb/MOEX_NEW/MOEX_Pages_sp/ContactUs.htm	info@mofaex.gov.sy
Tanzania	Ministry of Foreign Affairs and International Co-operation	http://www.foreign.go.tz/	Ministry of Foreign Affairs and International Co-operation - Tanzania, P.O Box 9000, Dar es Salaam. Tanzania; Tel: +255 (0)22 2111906 /07/08; Ministry Permanent Secretary, nje@foreign.go.tz
Tunisia	Ministry of Social Affairs, Solidarity and Tunisians Abroad	http://www.tunisie.gov.tn/index.php?option=com_ministeres&Itemid=382&task=view&id=32&lang=english	Tel: 71 567 502; Fax : 71 150 000; masste@rnas.gov.tn
Uganda	Ministry of Foreign Affairs	http://www.mofa.go.ug/index.php/diaspora-services/overview	Ministry of Foreign Affairs, P.O.Box 7048, Kampala, 2A/B Apollo Kaggwa Road; Tel: +256-414-345661; Fax: +256-41-258722/232874; info@mofa.go.ug

Country	Diaspora Ministry/Office	Website	Contact Information
United States	Global Partnership Initiative	http://www.state.gov/s/partnerships/	Global Partnership Initiative, Harry S Truman Building, US Department of State, 2201 C Street NW Suite 6817, Washington, DC 20520; Phone: (202) 647-2200; Fax: (202) 647-7631; Partnerships@State.gov
United States	Department of State	http://www.state.gov/r/	U.S. Department of State, 2201 C Street NW, Washington, DC 20520; Switchboard: 202-647-4000
Uruguay	Ministry of Foreign Affairs	http://www.mrree.gub.uy/frontend/page?1,inicio,inicio_mrree,O,es,0,	Colonia 1206, Montevideo, Uruguay; Tel: +(598) 2902 10 10
Vietnam	Ministry of Foreign Affairs	http://www.mofa.gov.vn/en/bng_vietnam/nr070622153725/	No. 1 Tôn Thất Đàm St., Ba Đình District, Hà Nội, Việt Nam; Tel: 84-4-37992000; Fax: 84-4-37992682; ttll.mfa@mofa.gov.vn
Yemen	Ministry of Foreign Affairs	http://www.mofa.gov.sa/sites/mofaen/ServicesAndInformation/news/MinistryNews/Pages/NewsArticleID92071.aspx	Republic of Yemen - Sanaa, National Information Center; Tel: 967-1-276-612; info@yemen-nic.info

Appendix G. Resources for Advocacy on Business Practices and Human Rights

Source	Link	Summary
Change.org	http://www.change.org/	Well-known site for starting a petition
United for Human Rights	http://www.humanrights.com/take-action/get-active.html	List of ways to get involved with human rights causes, including creating a group and petitioning governments
Human Rights First	http://www.humanrightsfirst.org/our-work/business-and-human-rights/	Overview of businesses and human rights, including links to the organization's initiatives for improving the human rights record of international business
Fair Labor Association, Third Party Complaint Process	http://www.fairlabor.org/third-party-complaint-process	Gives workers option to file a complaint if no remedy is available through internal or national complaint mechanisms. Instructions are available online at this link. Complaint can be filed online or downloaded and mailed.
Organization for Economic Cooperation and Development	http://www.oecd.org/	Non-judicial grievance mechanism
Global Business Coalition Against Human Trafficking (GBCAT)	Main web-page: http://www.gbcat.org/ Informational brochure: http://www.gbcat.org/res/gbcat.pdf	Provides resources for orientation and operational guidance to companies who desire to understand human trafficking and how it affects business
UN Human Rights Council	http://www.ohchr.org/EN/HRBodies/SP/Pages/Communications.aspx	Provides instructions on how to submit information to the Special Procedures of the Human Rights Council regarding human rights abuses
UN Human Rights Bodies, complaint procedures	http://www.ohchr.org/EN/HRBodies/TBPetitions/Pages/HR_TBPetitions.aspx	Provides instructions on how to submit individual complaints, state-to-state complaints, and inquiries to various human rights treaty bodies

Source	Link	Summary
OHCHR, Guiding Principles	http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf	31 Principles for businesses to consider in supporting human rights. Developed by the UN High Commissioner on Human Rights
OHCHR, The Corporate Responsibility to Respect Human Rights, An Interpretive Guide	http://www.ohchr.org/Documents/Publications/HR.PUB.12.2_En.pdf	Further information regarding the Guiding Principles, including helpful definitions and further explanatory commentary
Human Rights Translated: A Business Reference Guide	http://www2.ohchr.org/english/issues/globalization/business/docs/Human_Rights_Translated_web.pdf	Provides case studies for human rights protected by treaties
Company Mechanisms for Addressing Human Rights Complaints	http://www.csreurope.org/sites/default/files/Draft%20Report%20on%20Company%20Mechanisms%20for%20Addressing%20Human%20Rights%20Complaints%20-%20CSR%20Europe%20%282013%29.pdf	Eight effectiveness criteria for human rights complaint mechanisms
Corporate Social Responsibility	http://www.csreurope.org/sites/default/files/Draft%20Report%20on%20Company%20Mechanisms%20for%20Addressing%20Human%20Rights%20Complaints%20-%20CSR%20Europe%20%282013%29.pdf	Report on Company mechanisms for addressing Human Rights Complaints
Business & Human Rights Resource Centre	http://www.business-humanrights.org	A non-profit organization drawing attention to the human rights impacts (positive & negative) of over 5100 companies, operating in over 180 countries
Human Trafficking and Business: Good Practices to Prevent and Combat Human Trafficking	http://www.ungift.org/docs/ungift/Private_Sector_Web.pdf	Gives helpful overview of practices for business to adopt to help end human trafficking. It has several case studies providing helpful examples for others to emulate
End Human Trafficking Now E-learning tool	http://www.endhumantraffickingnow.com/the-e-learning-tool-to-fight-human-trafficking/	Tool to help businesses better understand how trafficking affects their company
UN Global Compact	www.unglobalcompact.org	Policy initiative for businesses committed to upholding international principles

Source	Link	Summary
International Labour Organization	www.ilo.org	Promotes social justice and internationally recognized human and labor rights
Institute for Human Rights and Business	http://www.ihrb.org/	Studies human rights issues and the role of businesses

Examples

Source	Link	Summary
Corrective Rape petition	http://www.change.org/petitions/south-africa-take-action-to-stop-corrective-rape	Successful movement to pass law against corrective rape in South Africa, started through a petition on Change.org
Carlson Companies	http://www.carlson.com/news-and-media/news-releases.do?article=6733463	News release on Carlson receiving Inaugural Award for Extraordinary Efforts To Combat Trafficking in Persons
Carlson Companies	http://www.endhumantraffickingnow.com/wp-content/uploads/2012/08/Carlson-Case-Study.pdf	Case Study from End Human Trafficking Now
U.S. Department of State award recipients	http://www.state.gov/j/tip/rls/tiprpt/2012/192362.htm	Gives short bio of award winners from around the world for their anti-trafficking and human rights work
U.N. Reaction to Garment factory collapse in Bangladesh	http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13309&LangID=E	Urging governments and orgs not to pull from Bangladesh, but to use the opportunity to encourage much needed improvements to the garment industry
Microsoft's Unlimited Potential Programme	http://www.microsoft.com/about/corporatecitizenship/en-us/	Given as example in the UN manual on Human Trafficking and Business
Gap Inc.	http://www.gapinc.com/content/gapinc/html/csr.html	Given as example in the UN manual on Human Trafficking and Business.
McDonald's Shareholders	http://www.huffingtonpost.com/margaret-jungk/mcdonalds-shareholders-no_b_3317423.html	Shareholders pressure McDonald's to identify and publicly report its human rights impacts. If the resolution passes it would be the first that has the company actually track and report its impact rather than past ones which only require the adoption of a human rights policy. McDonald's is encouraging the shareholders to vote against the proposal. A similar proposal was recently rejected by Halliburton, see http://www.rttnews.com/2120829/halliburton-shareholders-elect-all-11-nominees-to-board-at-annual-meeting.aspx .
Change.org	http://www.change.org/petitions/south-africa-take-action-to-stop-corrective-rape	Example of successful petition
Proxy Preview 2013	http://www.asyousow.org/publications/2013/ProxyPreview2013_0308.pdf The report can be downloaded at http://www.proxypreview.org/thank-you/	

Appendix H: National Human Rights Institutions

This list is not comprehensive. It includes only the NHRIs with an A rating from the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), a body of the United Nations.¹

Asia, the Pacific, and the Middle East	
Afghanistan: Independent Human Rights Commission	New Zealand: New Zealand Human Rights Commission
Australia: Australian Human Rights Commission	Occupied Palestinian Territory: Palestinian Independent Commission for Citizen's Rights
India: National Human Rights Commission of India	Qatar: National Committee for Human Rights
Indonesia: National Human Rights Commission of Indonesia	Philippines: Philippines Commission on Human Rights
Jordan: National Centre for Human Rights	Timor-Leste: Provedoria for Human Rights and Justice
Malaysia: Human Rights Commission of Malaysia (SUHAKAM)	Republic of Korea: National Human Rights Commission of the Republic of Korea
Mongolia: National Human Rights Commission of Mongolia	Thailand: National Human Rights Commission
Nepal: National Human Rights Commission of Nepal	

Africa	
Burundi: Independent National Human Rights Commission	Namibia: Office of the Ombudsman
Cameroon: National Commission on Human Rights and Freedoms	Nigeria: National Human Rights Commission of Nigeria
Egypt: National Council for Human Rights	Rwanda: National Commission for Human Rights
Ghana: Commission on Human Rights and Administrative Justice	Sierra Leone: Human Rights Commission

¹ International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), *Chart of the Status of National Institutions* (Feb. 11, 2013), http://www.ohchr.org/Documents/Countries/NHRI/Chart_Status_NIs.pdf.

Appendix H: National Human Rights Institutions

Kenya: Kenya National Commission on Human Rights	South Africa: South African Human Rights Commission
Malawi: Malawi Human Rights Commission	Togo: National Commission for Human Rights
Mauritania: Commission nationale des droits de l'homme	Uganda: Uganda Human Rights Commission
Mauritius: Commission nationale des droits de l'homme	United Republic of Tanzania: National Human Rights Commission
Morocco: Conseil consultatif des droits de l'homme du Maroc	Zambia: Zambian Human Rights Commission

Americas	
Argentina: Defensoría del Pueblo de la Nación Argentina	Guatemala: Procuraduría de los Derechos Humanos de Guatemala
Bolivia (Plurinational State of): Defensor del Pueblo	Mexico: Comisión Nacional de los Derechos Humanos
Canada: Canadian Human Rights Commission	Nicaragua: Procuraduría para la Defensa de los Derechos Humanos
Chile: Instituto Nacional de Derechos Humanos	Panama: Defensoría del Pueblo de la República de Panamá
Colombia: Defensoría del Pueblo	Paraguay: Defensoría del Pueblo de la República del Paraguay
Costa Rica: Defensoría de los Habitantes	Peru: Defensoría del Pueblo
Ecuador: Defensor del Pueblo	Venezuela (Bolivarian Republic of): Defensoría del Pueblo
El Salvador: Procuraduría para la Defensa de los Derechos Humanos	

Europe	
Albania: Republic of Albania People's Advocate	Ireland: Irish Human Rights Commission
Armenia: Human Rights Defender of Armenia	Luxembourg: Commission consultative des droits de l'homme du Grand-Duché de Luxembourg
Azerbaijan: Human Rights Commissioner (Ombudsman)	Northern Ireland (United Kingdom): Northern Ireland Human Rights Commission
Bosnia and Herzegovina: Institution of Human Rights Ombudsmen of Bosnia and Herzegovina	Poland: Commissioner for Civil Rights Protection
Croatia: Ombudsman of the Republic of Croatia	Portugal: Provedor de Justiça
Denmark: Danish Institute for Human Rights	Russian Federation: Commissioner for Human Rights in the Russian Federation
France: Commission nationale consultative des droits de l'homme	Scotland (United Kingdom): Scottish Human Rights Commission
Georgia: Public Defender's Office	Serbia: Protector of Citizens of the Republic of Serbia
Germany: Deutsches Institut für Menschenrechte	Spain: El Defensor del Pueblo
Great Britain (United Kingdom): Equality and Human Rights Commission	Ukraine: Ukrainian Parliament Commissioner for Human Rights
Greece: National Commission for Human Rights	



COMPLAINT MECHANISMS

Human rights advocates have many options for bringing a complaint (also called a “communication” or “petition”) about a particular human rights violation to the attention of an international or regional human rights body. A complaint mechanism is any procedure that will address individual factual circumstances of human rights violations. The primary options for bringing a complaint are: the UN Human Rights Council; UN treaty bodies; UN special procedures; and regional human rights bodies. Most mechanisms have a limited mandate, and many have special rules. This document contains a checklist of nearly 80 different mechanisms that receive and respond to complaints alleging violations of human rights. In addition to considering litigation under domestic laws, advocates should consider whether a complaint to one or more of these mechanisms would be an appropriate advocacy tool.

Advocates should consider carefully which complaint mechanisms are most appropriate. For example, some complaint mechanisms require that the affected party first exhaust domestic remedies or demonstrate that attempting to do so would be futile. Some complaint mechanisms also have a non-duplication requirement; if a person submits a complaint to one mechanism, sometimes the other mechanisms will not review the same issues. The UN special procedures mandate-holders, however, often address individual complaints jointly. Other important considerations include: rules on confidentiality; the types of remedies the mechanism offers; and whether a group or individual may submit a complaint on behalf of a victim. There are four main entities through which complaint procedures are possible:

1 UN HUMAN RIGHTS COUNCIL: Individual Complaints

The UN Human Rights Council has a procedure for reviewing and acting on communications that identify consistent patterns of gross and reliably attested human rights violations. This mechanism applies to all UN Member States. For more information about this procedure, see Chapter 9, Part A(i)(c).

2 UN TREATY BODIES: Inquiries and Individual Complaints

UN treaty bodies have jurisdiction over State Parties to the applicable treaty. Some treaty bodies have inquiry procedures to investigate emergency, grave, or systematic human rights violations. Most treaty bodies also have individual complaint mechanisms, but State Parties generally must “opt in” to those procedures. For more information about these procedures, see Chapter 9, Part B and Chapter 11, Part D(v).

3 UN SPECIAL PROCEDURES: Urgent Appeals and Allegation Letters

Many of the complaint mechanisms described below consist of urgent appeals (for time-sensitive, life-threatening matters) or allegation letters to UN special procedures mandate-holders (special rapporteurs, independent experts, and working groups). These mechanisms apply to all UN Member States and are not tied to a country’s acceptance of particular treaty obligations. They do not require exhaustion of domestic remedies, but the decision of whether to send a communication is left to the discretion of the particular special procedure, and each special procedure has its own criteria for determining whether a communication is appropriate. Anyone may submit credible and reliable information on a human rights violation to a special procedures mandate-holder. Submitting such information, in the form of an urgent appeal or allegation letter, is one way that advocates can act as a conduit for people facing human rights abuses. In 2012, special procedures mandate holders sent 603 communications to a total of 127 UN Member States. 74% of these communications were sent jointly by multiple special procedures mandate-holders. 54% were urgent appeals. For more information about urgent appeals and allegation letters, see Part D(v) of Chapter 11, and Part B(iv) of Chapter 9.

4 REGIONAL HUMAN RIGHTS BODIES

The European Court of Human Rights, the Inter-American Commission on Human Rights, the African Commission on Human and Peoples’ Rights, the African Committee of Experts on the Rights and Welfare of the Child, and the Economic Community of West African States Community Court of Justice can hear individual complaints alleging violations of human rights. For more information about these regional mechanisms, see Chapter 10 and Part 4(?) of Chapter 11.

COMPLAINT MECHANISMS: MENU OF OPTIONS

Depending on the complaint, advocates may want to consider options either by human rights issue area or by region. The following pages provide a menu through which advocates can search for the complaint procedures that best fit their needs. The first part of this list is organized by human rights subject-area: general mechanisms; civil and political rights; women's rights; racism and other minority issues; torture; disability; disappearances; economic, social, and cultural rights; rights affected by business practices, migrants; children; older persons; and indigenous peoples. The second part of this list identifies mechanisms that are limited in scope to particular countries or regions. It is organized by geography: Africa, Americas, Asia, Europe; and the Middle East.

COMPLAINT MECHANISMS BY HUMAN RIGHTS ISSUE AREA

GENERAL HUMAN RIGHTS

PROCEDURE	DESCRIPTION
Individual Complaint (Human Rights Council)	<p>In 2007, the UN Human Rights Council adopted a new, confidential complaint procedure to address consistent patterns of gross human rights violations. A Working Group on Communications examines the complaints and a Working Group on Situations brings consistent patterns of gross and reliably attested human rights violations to the attention of the Human Rights Council. To date, the Working Group on Situations has referred 14 situations to the Human Rights Council.</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to all UN Member States • mechanism is not tied to a country's acceptance of particular treaty obligations • remedies are limited; no compensation for individual victims or similar individual remedies
Action Against Reprisal (All UN Bodies)	<p>Sometimes governments retaliate against individuals or groups in response to their participation in or engagement with a human rights mechanism. All of the UN human rights mechanisms, including the UN Human Rights Council, UN special procedures, and UN treaty bodies, have procedures for taking action against these kinds of reprisals.</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to all UN Member States • each of the treaty bodies has recognized that there is a general right to be free from reprisals when giving evidence to a treaty body about a country situation • no person is to be threatened, coerced, or intimidated due to an appearance before a treaty body or arising out of information or testimony submitted to a treaty body • any individual or group that faces reprisals for engaging with a human rights mechanism should contact the relevant mechanism immediately to inform it of the circumstances

CIVIL AND POLITICAL RIGHTS

PROCEDURE	DESCRIPTION
Individual Complaint (ICCPR)	<p>The First Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) has an individual complaint mechanism managed by the UN Human Rights Committee. Of all of the complaint mechanisms in the UN treaty body system, this mechanism has enjoyed the most use and success.</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to 115 countries • it applies to all State Parties to the First Optional Protocol to the ICCPR • mechanism has been available since 1976—the UN's oldest human rights complaint procedure • the majority of complaints filed and decisions issued so far under the treaty body system have come under this mechanism • complaint may allege any violation of the ICCPR • complaint must be timely, and must be submitted only after domestic remedies have been exhausted • Human Rights Committee will not consider a complaint if a court or another human rights mechanism is presently conducting proceedings on the same matter



CIVIL AND POLITICAL RIGHTS

PROCEDURE	DESCRIPTION
<p>Urgent Appeal / Letter of Allegation</p> <p>(UN Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression)</p>	<p>The UN Commission on Human Rights established the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression in 1993. The special rapporteur accepts urgent appeals and allegation letters. This special rapporteur has identified specific categories of human rights violations of particular interest to his work.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations special rapporteur's website includes a model questionnaire identifying all of the information required in an urgent appeal or allegation letter from 2006 through the end of May 2013, the special rapporteur sent 1,278 communications, 255 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation</p> <p>(UN Special Rapporteur on freedom of religion or belief)</p>	<p>The UN Commission on Human Rights established the Special Rapporteur on freedom of religion or belief in 1986. The special rapporteur accepts urgent appeals and allegation letters. This special rapporteur has identified specific categories of human rights violations of particular interest to his work.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations the special rapporteur's website includes a model questionnaire in English, French, Russian, and Spanish identifying all of the information required in an urgent appeal or allegation letter from 2006 through the end of May 2013, the special rapporteur sent 205 communications, 50 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation</p> <p>(UN Special Rapporteur on the rights to freedom of peaceful assembly and of association)</p>	<p>In 2010, the UN Human Rights Council established the Special Rapporteur on the rights to freedom of peaceful assembly and of association. This special rapporteur is a relatively new special procedure, but he has been very active in responding to urgent appeals and letters of allegation.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations special rapporteur's website includes detailed guidelines for submitting an urgent appeal or letter of allegation from 2010 through the end of May 2013, the special rapporteur sent 348 communications, 198 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation</p> <p>(UN Special Rapporteur on the situation of Human Rights Defenders)</p>	<p>The UN Commission on Human Rights established the Special Rapporteur on the situation of Human Rights Defenders in 2000. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations special rapporteur's website includes a model questionnaire identifying all of the information required in an urgent appeal or allegation letter from 2006 through the end of May 2013, the special rapporteur sent 1,350 communications, 255 of which were sent during the last year of that time period
<p>Urgent Appeal / Individual Complaint</p> <p>(UN Working Group on Arbitrary Detention)</p>	<p>The UN Commission on Human Rights established the Working Group on Arbitrary Detention in 1991. Its mandate expressly provides for the consideration of individual complaints. It also responds to urgent appeals.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations working group's website includes a model questionnaire identifying all of the information required in an urgent appeal from 2006 through the end of May 2013, the working group sent 669 communications in response to urgent appeals, 112 of which were sent during the last year of that time period in 2012, the working group adopted 69 opinions in response to individual complaints concerning the detention of 198 persons in 37 countries



CIVIL AND POLITICAL RIGHTS	
PROCEDURE	DESCRIPTION
<p>Urgent Appeal / Letter of Allegation (UN Working Group on the use of mercenaries)</p>	<p>In 2005, the UN Commission on Human Rights established the Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination. The working group accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations working group's website includes a model questionnaire in English, French, and Spanish identifying all of the information required in an urgent appeal or allegation letter from 2006 through the end of May 2013, the working group sent 39 communications, 4 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on extrajudicial, summary or arbitrary executions)</p>	<p>In 1982, the UN Human Rights Council established the Special Rapporteur on extrajudicial, summary or arbitrary executions. The special rapporteur accepts urgent appeals and allegation letters. The special rapporteur responds to allegations regarding specific cases of alleged extrajudicial, summary, or arbitrary executions, as well as alleged death threats and fear of imminent execution of death sentences in contravention of human rights standards.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations special rapporteur's website includes a model questionnaire identifying all of the information required in an urgent appeal or allegation letter from 2006 through the end of May 2013, the special rapporteur sent 634 communications, 44 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on contemporary forms of slavery)</p>	<p>The UN Human Rights Council established the Special Rapporteur on contemporary forms of slavery in 2007. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations special rapporteur's website includes a model questionnaire in English, French, and Spanish identifying all of the information required in an urgent appeal or allegation letter from 2006 through the end of May 2013, the special rapporteur sent 18 communications, 2 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the independence of judges and lawyers)</p>	<p>The UN Commission on Human Rights established the Special Rapporteur on the independence of judges and lawyers in 1994. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 533 communications, 83 of which were sent during the last year of that time period
<p>Urgent Appeal / Individual Complaint (UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism)</p>	<p>The UN Commission on Human Rights established the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in 2005. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 158 communications, 19 of which were sent during the last year of that time period



CIVIL AND POLITICAL RIGHTS

PROCEDURE	DESCRIPTION
Urgent Appeal / Letter of Allegation (UN Independent Expert on the promotion of a democratic and equitable international order)	<p>The UN Human Rights Council appointed the first independent expert for this special procedures mandate in 2012. The independent expert accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations from 2012 through the end of May 2013, the special rapporteur sent one communication

WOMEN'S RIGHTS

PROCEDURE	DESCRIPTION
Individual Complaint (CEDAW)	<p>The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) has an Optional Protocol establishing an individual complaint mechanism.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 104 countries mechanism applies to all State Parties to the Optional Protocol to CEDAW
Inquiry Procedure (CEDAW)	<p>CEDAW has an inquiry procedure that permits the committee to study a problem in depth and to conduct country visits to investigate the situation. Through this procedure, the committee can make recommendations and solicit pledges from the government to rectify the problems identified. These investigations usually take several years and lead to a comprehensive report. The committee often engages in long-term follow-up with the government to ensure that recommendations are implemented. This inquiry procedure can be used when there is a widespread problem or a trend that is causing discrimination against multiple women.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 100 countries procedure is described in Article 8 of the Optional Protocol to CEDAW mechanism applies to all State Parties to the Optional Protocol to CEDAW, unless they have expressly "opted out" by making a declaration under Article 10 (Four State Parties have opted out: Bangladesh, Belize, Colombia, and Cuba)
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on violence against women, its causes and consequences)	<p>The UN Commission on Human Rights established the Special Rapporteur on violence against women, its causes and consequences in 1994. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations special rapporteur's website includes a model questionnaire identifying all of the information required in an urgent appeal or allegation letter from 2006 through the end of May 2013, the special rapporteur sent 228 communications, 60 of which were sent during the last year of that time period
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on trafficking in persons, especially in women and children)	<p>The UN Commission on Human Rights established the Special Rapporteur on trafficking in persons, especially in women and children in 2004. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 31 communications, 5 of which were sent during the last year of that time period



WOMEN'S RIGHTS

PROCEDURE	DESCRIPTION
Urgent Appeal / Letter of Allegation (UN Working Group on the issue of discrimination against women in law and in practice)	<p>The UN Human Rights Council established the Working Group on the issue of discrimination against women in law and in practice in 2010. The working group accepts urgent appeals and allegation letters concerning laws, policies, or practices that discriminate against women in general, as well as concerning cases involving an individual woman or a particular group of women.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations working group's website includes additional information about what information to include in an urgent appeal or allegation letter from 2006 through the end of May 2013, the working group sent 29 communications, 21 of which were sent during the last year of that time period

RACISM & OTHER MINORITY ISSUES

PROCEDURE	DESCRIPTION
Individual Complaint (CERD)	<p>Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination establishes an individual complaint mechanism. The Committee on the Elimination of Racial Discrimination received its first complaint under this mechanism in 1984.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 55 countries it applies to all State Parties to the CERD that have accepted the competence of the committee under Article 14 mechanism has been in place for 30 years, but it is used infrequently committee can usually issue a decision more quickly than some of the other treaty bodies because it typically hears only one or two cases each year
Early Warning Procedure (CERD)	<p>The Committee on the Elimination of Racial Discrimination has adopted an early warning / urgent action mechanism under its rules of procedure. The purpose of this mechanism is to prevent potential genocide or events of mass discrimination.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 176 countries committee adopted the mechanism under Article 9(1) of CERD under the procedure, the committee will act to address serious violations brought to its attention, including potential genocide, mass discrimination events, significant flows of refugees and displaced persons, and forced removal of indigenous groups
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance)	<p>The UN Commission on Human Rights established the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance in 1993. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 53 communications, 15 of which were sent during the last year of that time period
Urgent Appeal / Letter of Allegation (UN Independent Expert on Minority Issues)	<p>The UN Commission on Human Rights established the Independent Expert on Minority Issues in 2005. The expert's priorities are: increase the focus on minority communities in the context of poverty alleviation and development; increase the understanding of minority issues in the context of promoting social inclusion and ensuring stable societies; and mainstream the consideration of minority issues within the work of the UN. The independent expert accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations 2006 through the end of May 2013, the special rapporteur sent 108 communications, 34 of which were sent during the last year of that time period



RACISM & OTHER MINORITY ISSUES

PROCEDURE	DESCRIPTION
Urgent Appeal / Letter of Allegation (UN Working Group of Experts on People of African Descent)	<p>The UN Commission on Human Rights established the mandate of the Working Group of Experts on People of African descent in 2002. The working group accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations from 2006 through the end of May 2013, the working group sent two communications, both of which were sent during the last year of that time period

TORTURE

PROCEDURE	DESCRIPTION
Individual Complaint (CAT)	<p>The individual complaint mechanism under the Convention against Torture (CAT) is the second most used mechanism in the treaty body system. The Committee against Torture typically issues 25 to 30 decisions each year under this procedure.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 64 countries it applies to all State Parties to the CAT that have accepted the competence of the Committee against Torture under Article 22 of the CAT any private individual who is the victim of a violation of the CAT by a State Party that has accepted the competence of the Committee against Torture under Article 22 may submit a complaint if the alleged victim is not able to submit the complaint, relatives or representatives may act on the victim's behalf
Inquiry Procedure (CAT)	<p>The Committee against Torture has an inquiry procedure to investigate a pattern of violations brought to its attention.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 146 countries Article 20 of the CAT describes the inquiry procedure the inquiry procedure applies to all State Parties to the CAT, unless a State Party has expressly "opted out" by making a declaration under Article 28 (eight State Parties have opted out) Committee against Torture may designate one or more of its members to make a confidential inquiry, including a visit to the country in question Committee against Torture used the mechanism in 2012 to investigate conditions in Syria and Nepal
Country Visit (OPCAT)	<p>The Convention against Torture has an Optional Protocol (OPCAT) designed to establish preventive mechanisms in countries to avoid incommunicado detention and other conditions that may facilitate torture of detained persons. The Subcommittee for the Prevention of Torture is responsible for monitoring compliance with OPCAT. The procedures are confidential, but they involve publicly announced visits to several countries each year. These procedures are not technically an individual complaint mechanism, but victims and NGOs may provide testimony to the Subcommittee about individual human rights violations.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 70 countries the purpose of OPCAT is to assist State Parties in implementing effective mechanisms to prevent torture and inhuman treatment in jails, prisons, and other detention facilities OPCAT does not directly establish an individual complaint mechanism, but when the committee schedules a visit to a particular country, it welcomes the opportunity to speak to NGOs and representatives of civil society about the human rights conditions in detention facilities in the country the committee schedules 5 to 10 country visits a year, but plans to increase this to 8 to 10 visits per year in 2014, the committee will visit Azerbaijan, Ecuador, Malta, the Netherlands, Nicaragua, Nigeria, and Togo



TORURE	
PROCEDURE	DESCRIPTION
<p>Urgent Appeal / Letter of Allegation</p> <p>(UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment)</p>	<p>The UN Commission on Human Rights established the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment in 1985. The special rapporteur receives urgent appeals and allegation letters. He responds to allegations suggesting that an individual or a group of individuals is at risk of torture, and to allegations when people are feared to be at risk of: corporal punishment; means of restraint contrary to international standards; prolonged incommunicado detention; solitary confinement; “torturous” conditions of detention; the denial of medical treatment and adequate nutrition; imminent deportation to a country where there is a risk of torture, and the threatened use or excessive use of force by law enforcement officials. The special rapporteur also responds to urgent appeals concerning the enactment of legislation that will allegedly undermine the prohibition of torture. The special rapporteur responds to allegation letters concerning systematic patterns of torture, including specific groups of victims or perpetrators, the use of particular methods of torture, and detention conditions amounting to ill-treatment. The special rapporteur also responds to allegation letters concerning legislation that has an effect on the occurrence of torture, including: criminal sentencing provisions; criminal procedure legislation; legal provisions granting amnesty; and other legal provisions providing for de facto or de jure impunity in violation of the prohibition of torture.</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to all UN Member States • mechanism is not tied to a country’s acceptance of particular treaty obligations • special rapporteur’s website includes a model questionnaire identifying all of the information required in an urgent appeal or allegation letter • from 2006 through the end of May 2013, the special rapporteur sent 1,021 communications, 157 of which were sent during the last year of that time period
DISABILITY	
PROCEDURE	DESCRIPTION
<p>Individual Complaint</p> <p>(CPRD)</p>	<p>The Convention on the Rights of Persons with Disabilities (CPRD) has an Optional Protocol establishing an individual complaint mechanism. Even though the treaty and mechanism are relatively new, the committee has already issued several important decisions under this mechanism.</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to 79 countries • it applies to all State Parties to the Optional Protocol to CRPD • the committee issued its first decision under this mechanism in May 2012, in a case addressing building permit requirements for the construction of a private home hydrotherapy pool for a severely disabled woman who had fragile skin & bone conditions; the local zoning requirements did not permit the construction of the hydrotherapy pool but the committee determined that the CRPD required an exception
<p>Inquiry Procedure</p> <p>(CPRD)</p>	<p>The CRPD has an inquiry procedure under articles 6 and 7 of the Optional Protocol. No case has yet been decided under this procedure.</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to 78 countries • Articles 6 and 7 of the Optional Protocol describe the procedure • if the committee receives reliable information of grave or systematic violations of the CRPD, it may investigate, invite the State Party to respond, conduct a country visit, and issue a report on its findings • the procedure applies to all State Parties except those that have “opted out” by making a declaration under Article 8 of the Optional Protocol (Syria has opted out)



DISAPPEARANCES	
PROCEDURE	DESCRIPTION
Individual Complaint (CED)	<p>The newest treaty to come into force, the International Convention for the Protection of All Persons from Enforced Disappearances (CED) has an individual complaint mechanism in Article 31. No case has yet been decided under this procedure.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 16 countries it applies to all State Parties that have accepted the competence of the committee under Article 31 of CED
Urgent Action (CED)	<p>Article 30 of the CED establishes an urgent action procedure that can be invoked when a person has disappeared. Several actions are currently pending before the committee under this procedure, but the committee has not released any information to the public about the cases.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 41 countries it applies to all State Parties to the CED Article 30 of the CED describes the procedure: a relative or legal representative of a disappeared person may submit a request to seek and find the person on an urgent basis; the committee investigates, contacts the State Party, and keeps the relatives informed; the committee continues its efforts as long as the fate of the person remains unknown
Inquiry Procedure (CED)	<p>Article 33 of the CED establishes an inquiry procedure. No case has yet been decided under this mechanism.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 41 countries it applies to all State Parties to the CED Article 33 of the CED describes the procedure: if the committee receives reliable information demonstrating serious violations of the CED, it may, after consulting with the government of the country concerned, conduct an investigatory visit and issue a report
Report on Systematic, Widespread Violations (CED)	<p>The CED also permits the committee to report a case of systematic disappearances immediately to the attention of the UN General Assembly for extraordinary action. No case has yet been decided under this mechanism.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 41 countries it applies to all State Parties to the CED Article 34 of the CED describes the procedure: if the committee receives well-founded information of widespread or systematic enforced disappearances it may bring the matter to the attention of the UN General Assembly on an urgent basis
Urgent Appeal / Urgent Procedure / Standard Procedure / Prompt Intervention (UN Working Group on Enforced or Involuntary Disappearances)	<p>In 1980, the UN Commission on Human Rights established the Working Group on Enforced or Involuntary Disappearances. It was the United Nations' first thematic mechanism with a universal mandate. It acts as a channel of communication between governments and the family members of disappeared persons. Its urgent appeal process is the same as the other UN special procedures mechanisms, but it has distinct procedures for: urgent procedures; standard procedures; prompt interventions; and general allegations. From 1980 through 2012, it transmitted a total of 53,986 cases to Governments.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations the working group's website includes a model questionnaire identifying all of the information required in an urgent appeal from 2006 through the end of May 2013, the working group sent 202 communications in response to urgent appeals, 31 of which were sent during the last year of that time period as of the end of 2012, it had 42,889 cases in 84 countries under active consideration



ECONOMIC, SOCIAL, AND CULTURAL RIGHTS	
PROCEDURE	DESCRIPTION
Individual Complaint (ICESC - Optional Protocol)	<p>The newest instrument to come into effect is the Optional Protocol to the International Convention on Economic, Social and Cultural Rights (ICESC). This Optional Protocol has an individual complaint mechanism. The Committee on Economic, Social and Cultural rights has not yet decided any cases under this mechanism.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 11 countries it applies to all State Parties to the Optional Protocol
Inquiry Procedure (ICESC - Optional Protocol)	<p>The ICESC Optional Protocol includes an inquiry procedure. The committee has not yet decided any cases under this mechanism.</p> <ul style="list-style-type: none"> mechanism is currently in effect it applies to one State Party so far (El Salvador) Articles 11 and 12 of the Optional Protocol describe the inquiry procedure the inquiry procedure applies only to State Parties that “opt in” under Article 11
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the Right to Adequate Housing)	<p>The UN Commission on Human Rights established the mandate of the Special Rapporteur on the right to adequate housing in 2000. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country’s acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 154 communications, 27 of which were sent during the last year of that time period
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the Right to Education)	<p>The UN Commission on Human Rights established the Special Rapporteur on the right to education in 1998. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country’s acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 39 communications, 4 of which were sent during the last year of that time period
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the Right to Food)	<p>The UN Commission on Human Rights established the Special Rapporteur on the right to food in 2000. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country’s acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 65 communications, 14 of which were sent during the last year of that time period
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the Right to Safe Drinking Water and Sanitation)	<p>The UN Human Rights Council established the Special Rapporteur on the human right to safe drinking water and sanitation in 2008. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country’s acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 27 communications, 8 of which were sent during the last year of that time period
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on Extreme Poverty and Human Rights)	<p>The UN Commission on Human Rights established the Special Rapporteur on extreme poverty in 1998. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country’s acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 19 communications, 12 of which were sent during the last year of that time period



RIGHTS AFFECTED BY BUSINESS PRACTICES

PROCEDURE	DESCRIPTION
Individual Complaint (the UN Working Group on the issue of human rights and transnational corporations and other business enterprises)	<p>The UN Human Rights Council established the Working Group on the issue of human rights and transnational corporations and other business enterprises in 2011. The working group states that it is not generally in a position to address individual cases of alleged business-related human rights abuse. In some circumstances, however, it “may exercise its discretion to raise specific allegations that it determines to be particularly emblematic with relevant State authorities and companies, and request clarification or additional information as appropriate.”</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to all UN Member States • mechanism is not tied to a country’s acceptance of particular treaty obligations • from 2011 through the end of May 2013, the working group sent six communications, all of which were sent during the last year of that time period

MIGRANT’S RIGHTS

PROCEDURE	DESCRIPTION
Individual Complaint (CMW)	<p>The International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) has an individual complaint mechanism in Article 77. The mechanism has not yet come into effect.</p> <ul style="list-style-type: none"> • mechanism has not yet entered into force • under Article 77 of the CMW, ten State Parties must accept the procedure for it to take effect; just two State Parties have done so
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the Human Rights of Migrants)	<p>The UN Commission on Human Rights established the Special Rapporteur on the Human Rights of Migrants in 1999. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to all UN Member States • mechanism is not tied to a country’s acceptance of particular treaty obligations • special rapporteur’s website includes a model questionnaire in Arabic, Chinese, English, French, Russian, and Spanish identifying all of the information required in an urgent appeal or allegation letter • from 2006 through the end of May 2013, the special rapporteur sent 101 communications, 15 of which were sent during the last year of that time period
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the Human Rights of Internally Displaced Persons)	<p>The UN Commission on Human Rights established the Special Rapporteur on the human rights of internally displaced persons in 2004. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> • mechanism is currently in effect and applies to all UN Member States • mechanism is not tied to a country’s acceptance of particular treaty obligations • from 2006 through the end of May 2013, the special rapporteur sent ten communications, one of which was sent during the last year of that time period

CHILDREN’S RIGHTS

PROCEDURE	DESCRIPTION
Individual Complaint (CRC - OPIC)	<p>The Convention on the Rights of the Child (CRC) has a new Optional Protocol establishing an individual complaint mechanism.</p> <ul style="list-style-type: none"> • the 10th ratification required to bring the Optional Protocol on an individual complaints procedure (OPIC) into force was received from Costa Rica on Jan 14, 2014. • The mechanism enters into force three months later, on April 14, 2014



CHILDREN'S RIGHTS

PROCEDURE	DESCRIPTION
Inquiry Procedure (CRC - OPIC)	<p>The Optional Protocol on Individual Communications (OPIC) to the CRC has an inquiry procedure. Article 13 of the OPIC describes the inquiry procedure.</p> <ul style="list-style-type: none"> the 10th ratification was received January 14; it now comes into effect three months later, on April 14, 2014 a state that has ratified the Protocol is automatically subject to this procedure, unless the state has expressly "opted out" by making a declaration under article 13 at the time of signing or ratification (so far, no state has opted out)
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the sale of children, child prostitution and child pornography)	<p>In 1990, the UN Commission on Human Rights established a Special Rapporteur on the sale of children, child prostitution and child pornography. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations the special rapporteur's website includes a model questionnaire identifying all of the information required in an urgent appeal or allegation letter from 2006 through the end of May 2013, the special rapporteur sent 18 communications, 1 of which was sent during the last year of that time period
<p>* See the section above on Women's Rights for information about the Urgent Appeal / Letter of Allegation to the UN Special Rapporteur on trafficking in persons, especially in women and children.</p> <p>* See the section below on Africa for information about the complaint procedure of the African Committee of Experts on the Rights and Welfare of the Child.</p>	

RIGHTS OF OLDER PERSONS

PROCEDURE	DESCRIPTION
Urgent Appeal / Letter of Allegation (UN Independent Expert on the enjoyment of all human rights by older persons)	<p>In September 2013, the UN Human Rights Council adopted a resolution establishing the mandate for an Independent Expert on the enjoyment of all human rights by older persons. It will appoint a person to the position of independent expert in March 2014. The independent expert will likely accept urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is not yet in effect mechanism applies to all UN Member States and is not tied to a country's acceptance of particular treaty obligations

INDIGENOUS PEOPLES RIGHTS

PROCEDURE	DESCRIPTION
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples)	<p>The UN Commission on Human Rights established the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous peoples in 2001. The special rapporteur accepts urgent appeals and allegation letters alleging human rights violations of indigenous peoples.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all UN Member States mechanism is not tied to a country's acceptance of particular treaty obligations the special rapporteur's website explains the information to include in an urgent appeal or allegation letter from 2006 through the end of May 2013, the special rapporteur sent 146 communications, 38 of which were sent during the last year of that time period

**REGIONAL AND COUNTRY-SPECIFIC COMPLAINT MECHANISMS**

AFRICA	
PROCEDURE	DESCRIPTION
Individual Communication (African Charter on Human and Peoples' Rights)	<p>The African Commission on Human and Peoples' Rights receives and considers individual communications alleging that a State Party to the convention has violated a person or group's rights under the charter. Between 1988 and 2012, the commission received over 400 communications and issued approximately 200 decisions.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to all countries in Africa except Morocco it applies to all State Parties to the African Charter on Human and Peoples' Rights if the State Party fails to comply with the commission's recommendations, the commission may refer the communication to the African Court on Human and Peoples' Rights a party filing a communication with the African Commission may request that the commission refer the case immediately to the African Court on Human and Peoples' Rights for the establishment of provisional measures
Case (African Court on Human and Peoples' Rights)	<p>The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights established the African Court. The court is designed to complement the mandate of the African Commission. The court delivered its first ruling in 2009 and has since decided 13 cases.</p> <ul style="list-style-type: none"> mechanism is currently in effect, and for cases brought by individuals and non-governmental organizations, it applies to seven countries it applies to any State Party that has made a declaration under Article 34(6) of the Protocol "opting in" to give the court jurisdiction over cases brought by individuals and non-governmental organizations as of January 2014, seven State Parties have made declarations under Article 34(6) recognizing the court's jurisdiction in individual cases: Burkina Faso, Côte d'Ivoire, Ghana, Malawi, Mali, Rwanda, and Tanzania
Individual Complaint (ACERWC)	<p>Article 44 of the African Charter on the Rights and Welfare of the Child empowers the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) to consider individual complaints of violations of the charter.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 45 countries it applies to all State Parties to the African Charter on the Rights and Welfare of the Child, except State Parties that "opt out" of the Article 44 procedure (Egypt is the only State Party that has opted out) as of 2011, the committee had received two individual complaints
Case (ECOWAS)	<p>The Economic Community of West African States (ECOWAS) Community Court of Justice has jurisdiction to rule on violations of fundamental human rights. The court does not require exhaustion of domestic remedies.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 15 countries it applies to all ECOWAS Member States the court's website includes instructions for submitting a case
Urgent Appeal / Letter of Allegation (UN Independent Expert on the situation of human rights in Central African Republic)	<p>The UN Human Rights Council established the mandate for the independent expert in 2013. The council will appoint the independent expert in March 2014. It is not clear whether the independent expert will accept urgent appeals and allegation letters.</p>



AFRICA	
PROCEDURE	DESCRIPTION
Urgent Appeal / Letter of Allegation (UN Independent Expert on the situation of human rights in Côte d'Ivoire)	<p>The UN Human Rights Council established the mandate for this independent expert in 2011. It is not clear whether the independent expert accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Côte d'Ivoire's acceptance of particular treaty obligations as of May 2013, the independent expert had not sent any communications
Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights in Eritrea)	<p>The UN Human Rights Council established this special procedures mandate-holder in 2012. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Eritrea's acceptance of particular treaty obligations the special rapporteur's website includes a model questionnaire available in Arabic, English, and Tigrinya as of May 2013, the special rapporteur had not sent any communications
Urgent Appeal / Letter of Allegation (UN Independent Expert on the situation of human rights in Mali)	<p>The UN Human Rights Council established this special procedures mandate-holder in 2013. It is not clear whether the independent expert will accept urgent appeals and allegation letters.</p>
Urgent Appeal / Letter of Allegation (UN Independent Expert on the situation of human rights in Somalia)	<p>The UN Commission on Human Rights established the Independent Expert on the situation of human rights in Somalia 1993. The independent expert accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Somalia's acceptance of particular treaty obligations from 2006 through the end of May 2013, the independent expert has sent six communications, one of which was sent during the last year of that time period
Urgent Appeal / Letter of Allegation (UN Independent Expert on the situation of human rights in the Sudan)	<p>The UN Human Rights Council established this special procedures mandate-holder in 2009. The independent expert accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Sudan's acceptance of particular treaty obligations from 2006 through the end of May 2013, the independent expert sent 12 communications, 5 of which were sent during the last year of that time period

AMERICAS	
PROCEDURE	DESCRIPTION
Request for precautionary measures (Inter-American Commission on Human Rights)	<p>Under Article 25 of the Inter-American Commission on Human Rights' Rules of Procedure, the IACHR can grant precautionary measures to help protect human rights defenders and others who are at risk. The commission can act on requests for precautionary measures even in the absence of an individual complaint. In 2012, the commission received 448 requests for precautionary measures, granted 35 such requests, denied 149, and sought additional information with respect to the others.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to an OAS Member State's ratification of the American Convention on Human Rights it applies to all 35 independent countries of the Americas precautionary measures are appropriate only for "serious and urgent situations presenting a risk of irreparable harm to persons or to the subject matter of a pending petition or case before the organs of the inter-American system"



AMERICAS	
PROCEDURE	DESCRIPTION
<p>Individual Complaint (Inter-American Commission on Human Rights)</p>	<p>The Inter-American Commission on Human Rights has the authority to hear individual complaints (called “individual petitions”) against all Members of the Organization of American States (OAS). Petitions may request interim “precautionary measures.” In 2012, the commission received 1,936 petitions, issued 59 decisions on admissibility, and issued 15 decisions on the merits. The commission may refer petitions against some countries to the Inter-American Court of Human Rights. In 2012, the commission referred 12 cases to the court.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to an OAS Member State’s ratification of the American Convention on Human Rights it applies to all 35 independent countries of the Americas the petition should include the personal details of the victim and the petitioner(s), a detailed description of the alleged violations, the names of the authorities responsible, documentation of previous attempts at recourse, and any additional supporting evidence such as witness statements the Inter-American Commission offers pamphlets online in English, French, Portuguese, and Spanish that further explain the petition process and provide a detailed list of submission requirements a petition form is also available online at www.cidh.oas.org/cidh_apps/instructions.asp?gc_language=E
<p>Urgent Appeal / Letter of Allegation (UN Independent Expert on the situation of human rights in the Haiti)</p>	<p>The UN Commission on Human Rights established the Independent Expert on the situation of human rights in Haiti in 1995. This special procedures mandate-holder accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Haiti’s acceptance of particular treaty obligations from 2006 through the end of May 2013, the independent expert sent two communications, both of which were sent during the last year of that time period

ASIA	
PROCEDURE	DESCRIPTION
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights in Cambodia)</p>	<p>The UN Commission on Human Rights established the Special Rapporteur on the situation of human rights in Cambodia in 1993. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Cambodia’s acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 15 communications, 4 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea)</p>	<p>The UN Commission on Human Rights established this special procedures mandate-holder in 2004. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to the Democratic People’s Republic of Korea’s acceptance of particular treaty obligations; and from 2006 through the end of May 2013, the special rapporteur sent two communications, one of which was sent during the last year of that time period



ASIA	
PROCEDURE	DESCRIPTION
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights in Myanmar)</p>	<p>The UN Commission on Human Rights established this special procedures mandate-holder in 1992. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Myanmar's acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 43 communications, 16 of which were sent during the last year of that time period

EUROPE	
PROCEDURE	DESCRIPTION
<p>Case (European Court of Human Rights)</p>	<p>The European Court of Human Rights is an international court with a mandate to uphold the European Convention on Human Rights. It was established in 1959 and has been a full-time court since 1998. It has delivered over 10,000 judgments.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 47 countries it applies to all Council of Europe Member States that have ratified the European Convention on Human Rights
<p>Request to the Council of Europe's Commissioner for Human Rights</p>	<p>The Commissioner for Human Rights is responsible for providing "strong and effective protection for human rights defenders by . . . intervening, in the manner the Commissioner deems appropriate, with the competent authorities, in order to assist them in looking for solutions, in accordance with their obligations, to the problems which human rights defenders may face, especially in serious situations where there is a need for urgent action." The commissioner's jurisdiction is limited to human rights defenders who are located in one of the Member States of the Council of Europe.</p> <ul style="list-style-type: none"> mechanism is currently in effect and applies to 47 countries it applies to all Council of Europe Member States that have ratified the European Convention on Human Rights
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights in Belarus)</p>	<p>The UN Human Rights Council reestablished this special procedures mandate-holder in 2012. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Belarus' acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent two communications, both of which were sent since 2012



MIDDLE EAST	
PROCEDURE	DESCRIPTION
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights in the Islamic Republic of Iran)</p>	<p>The UN Human Rights Council established this special procedure mandate-holder in 2011. The special rapporteur accepts urgent appeals and allegation letters. He has taken a particular interest in gathering information from the Iranian diaspora. In December 2013, he conducted a nine-day fact-finding mission to Amsterdam, Berlin, and Paris to gather information from Iranians in those cities about the past and present experiences of victims of reported human rights violations in Iran. He met with student activists, university professors, lawyers, authors, publishers, former political prisoners, and proponents of minority, women's and LGBT rights. He will present his findings to the Human Rights Council in March 2014.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to Iran's acceptance of particular treaty obligations from 2011 through the end of May 2013, the special rapporteur sent 40 communications, 24 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967)</p>	<p>The UN Commission on Human Rights established the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967 in 1993. The special rapporteur accepts urgent appeals and allegation letters.</p> <ul style="list-style-type: none"> mechanism is currently in effect and is not tied to the acceptance of particular treaty obligations from 2006 through the end of May 2013, the special rapporteur sent 13 communications, 5 of which were sent during the last year of that time period
<p>Urgent Appeal / Letter of Allegation (UN Special Rapporteur on the situation of human rights in the Syrian Arab Republic)</p>	<p>The UN Human Rights Council established a mandate for a Special Rapporteur on Syria in 2011, but his work will begin only after the mandate of the Commission of Inquiry on the situation in the Syrian Arab Republic ends. In the meantime, the Commission of Inquiry invites all interested persons and organizations to submit relevant information and documentation on all alleged violations of international human rights law in Syria since March 2011 to COISyria-submissions@ohchr.org or Commission of Inquiry on Syria, c/o OHCHR, Office of the United Nations in Geneva, CH-1211 Geneva 10.</p> <ul style="list-style-type: none"> mechanism is not yet in effect mechanism is not tied to Syria's acceptance of particular treaty obligations

**Human Rights Council
Complaint Procedure Form**

- You are kindly requested to submit your complaint in writing in one of the six official UN languages (Arabic, Chinese, English, French, Russian, and Spanish) and to use these languages in any future correspondence;
- Anonymous complaints are not admissible;
- It is recommended that your complaint does not exceed eight pages, excluding enclosures.
- You are kindly requested not to use abusive or insulting language.

I. Information concerning the author (s) of the communication or the alleged victim (s) if other than the author

Individual Group of individuals NGO Other

Last name: _____

First name(s): _____

Nationality: _____

Address for correspondence on this complaint: _____

Tel and fax: (please indicate country and area code) _____

E-mail: _____

Website: _____

Submitting the complaint:

On the author's own behalf:

On behalf of other persons: (Please specify: _____)

II. Information on the State concerned

Name of the State concerned and, as applicable, name of public authorities responsible for the alleged violation(s): _____

III. Facts of the complaint and nature of the alleged violation(s)

The complaint procedure addresses consistent patterns of gross and reliably attested violations of all human rights and all fundamental freedoms occurring in any part of the world and under any circumstances.

Please detail, in chronological order, the facts and circumstances of the alleged violations including dates, places and alleged perpetrators and how you consider that the facts and circumstances described violate your rights or that of the concerned person(s). _____

IV. Exhaustion of domestic remedies

1- Steps taken by or on behalf of the alleged victim(s) to exhaust domestic remedies– please provide details on the procedures which have been pursued, including recourse to the courts and other public authorities as well as national human rights institutions^{*}, the claims made, at which times, and what the outcome was:

2- If domestic remedies have not been exhausted on grounds that their application would be ineffective or unreasonably prolonged, please explain the reasons in detail:

V. Submission of communication to other human rights bodies

1- Have you already submitted the same matter to a special procedure, a treaty body or other United Nations or similar regional complaint procedures in the field of human rights?

2- If so, detail which procedure has been, or is being pursued, which claims have been made, at which times, and the current status of the complaint before this body:

VI. Request for confidentiality

In case the communication complies with the admissibility criteria set forth in Council resolution 5/1, kindly note that it will be transmitted to the State concerned so as to obtain the views of the latter on the allegations of violations.

Please state whether you would like your identity or any specific information contained in the complaint to be kept confidential.

Request for confidentiality (*Please tick as appropriate*): Yes No

Please indicate which information you would like to be kept confidential

Date: _____

Signature: _____

N.B. The blanks under the various sections of this form indicate where your responses are required. You should take as much space as you need to set out your responses. Your complaint should not exceed eight pages.

^{*} National human rights institutions, established and operating under the Principles Relating to the Status of National Institutions (the Paris Principles), in particular in regard to quasi-judicial competence, may serve as effective means of addressing individual human rights violations.

VII. Checklist of supporting documents

Please provide copies (not original) of supporting documents (kindly note that these documents will not be returned) in one of the six UN official languages.

- Decisions of domestic courts and authorities on the claim made (a copy of the relevant national legislation is also helpful):
- Complaints sent to any other procedure mentioned in section V (and any decisions taken under that procedure):
- Any other evidence or supporting documents deemed necessary:

VIII. Where to send your communications?

Office of the United Nations High Commissioner for Human Rights
Human Rights Council Branch-Complaint Procedure Unit
OHCHR- Palais Wilson
United Nations Office at Geneva
CH-1211 Geneva 10, Switzerland
Fax: (+41 22) 917 90 11
E-mail: CP@ohchr.org
Website: <http://www.ohchr.org/EN/HRBodies/HRC/Pages/HRCIndex.aspx>

Appendix K. UN and Regional Special Procedures

UN Special Procedures

Special Procedure	Name	Contact / Special instructions
Independent Expert on minority issues	Ms. Rita Izsák	minorityissues@ohchr.org Tel: +41 22 917 9640
Independent Expert on human rights and international solidarity	Ms. Virginia Dandan	iesolidarity@ohchr.org Telephone: (41-22) 928 9458 Fax: (+41-22) 928 9010
Independent Expert on the effects of foreign debt	Mr. Cephas Lumina	ieforeigndebt@ohchr.org
Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment	Mr. John Knox	ieenvironment@ohchr.org
Independent Expert on the promotion of a democratic and equitable international order	Mr. Alfred de Zayas	ie-internationalorder@ohchr.org
Independent Expert on the situation of human rights in Somalia	Mr. Shamsul Bari	ie-somalia@ohchr.org
Independent Expert on the situation of human rights in the Sudan	Mr. Mashood Baderin	iesudan@ohchr.org
Independent Expert on the situation of human rights in Côte d'Ivoire	Mr. Doudou Diène	eicotedivoire@ohchr.org
Independent Expert on the situation of human rights in Haiti	Mr. Gustavi Gallón	ie-haiti@ohchr.org
Special Rapporteur in the field of cultural rights	Ms. Farida Shaheed	srculturalrights@ohchr.org Telephone: (41-22) 917 92 54
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living	Ms. Raquel Rolnik	srhousing@ohchr.org
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	Mr. Mutuma Ruteere	racism@ohchr.org
Special Rapporteur on contemporary forms of slavery, including its causes and its consequences	Ms. Gulnara Shahinian	srsavery@ohchr.org Special form: http://www.ohchr.org/Documents/Issues/Slavery/SR/AFslavery_en.doc

Special Procedure	Name	Contact / Special instructions
Special Rapporteur on extrajudicial, summary or arbitrary executions	Mr. Christof Heyns	eje@ohchr.org Special questionnaire: http://www2.ohchr.org/english/issues/executions/model.htm
Special Rapporteur on extreme poverty and human rights	Ms. Maria Magdalena Sepúlveda Carmona	srextremepoverty@ohchr.org
Special Rapporteur on freedom of religion or belief	Mr. Heiner Bielefeldt	freedomofreligion@ohchr.org Special questionnaire: http://www.ohchr.org/Documents/Issues/Religion/questionnaire-e.doc
Special Rapporteur on the human right to safe drinking water and sanitation	Ms. Catarina de Albuquerque	srwatsan@ohchr.org
Special Rapporteur on the human rights of internally displaced persons	Mr. Chaloka Beyani	idp@ohchr.org
Special Rapporteur on the human rights of migrants	Mr. François Crépeau	migrant@ohchr.org Special questionnaire: http://www.ohchr.org/EN/Issues/Migration/SRMigrants/Pages/Communications.aspx
Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes	Mr. Marc Pallemmaerts	srtoxicwaste@ohchr.org
Special Rapporteur on the independence of judges and lawyers	Ms. Gabriela Knaul	SRindependenceJL@ohchr.org
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism	Mr. Ben Emmerson	srct@ohchr.org
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	Mr. Frank La Rue	freedex@ohchr.org Questionnaire: http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/OpinionQuestionnaire.aspx
Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence	Mr. Pablo de Greiff	srtruth@ohchr.org
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	Mr. Anand Grover	srhealth@ohchr.org
Special Rapporteur on the right to education	Mr. Kishore Singh	sreducation@ohchr.org

Special Procedure	Name	Contact / Special instructions
Special Rapporteur on the right to food	Mr. Olivier De Schutter	srfood@ohchr.org
Special Rapporteur on the rights of indigenous peoples	Mr. James Anaya	indigenous@ohchr.org
Special Rapporteur on the rights to freedom of peaceful assembly and of association	Mr. Maina Kiai	freeassembly@ohchr.org Special instructions for submission: http://www.ohchr.org/EN/Issues/AssemblyAssociation/Pages/Complaints.aspx
Special Rapporteur on the sale of children, child prostitution and child pornography	Ms. Najat Maalla M'jid	spsaleofchildren@ohchr.org Individual complaints and questionnaire: http://www.ohchr.org/EN/Issues/Children/Pages/IndividualComplaints.aspx
Special Rapporteur on the situation of human rights in Myanmar	Mr. Tomás Ojea Quintana	sr-myanmar@ohchr.org
Special Rapporteur on the situation of human rights in the Syrian Arab Republic	Mr. Paulo Sérgio Pinheiro	srsyria@ohchr.org
Special Rapporteur on the situation of human rights in Belarus	Mr. Miklós Haraszti	sp-belarus@ohchr.org
Special Rapporteur on the situation of human rights in Cambodia	Mr. Surya Prasad Subedi	srcambodia@ohchr.org
Special Rapporteur on the situation of human rights in Eritrea	Ms. Sheila B. Keetharuth	sr-eritrea@ohchr.org questionnaire: http://www.ohchr.org/Documents/Countries/ER/QuestionnaireSR_Eritrea.doc
Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea	Mr. Marzuki Darusman	hr-dprk@ohchr.org
Special Rapporteur on the situation of human rights in the Islamic Republic of Iran	Mr. Ahmed Shaheed	sr-iran@ohchr.org Naveed Ahmed (Tel. +41 22 928 9477 / email: nahmed@ohchr.org).
Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967	Mr. Richard Falk	sropt@ohchr.org
Special Rapporteur on the situation on human rights defenders	Ms. Margaret Sekaggya	defenders@ohchr.org Questionnaire: http://www.ohchr.org/EN/Issues/SRHRDefenders/Pages/Complaints.aspx

Special Procedure	Name	Contact / Special instructions
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment	Mr. Juan Ernesto Méndez	sr-torture@ohchr.org Special questionnaire: http://www.ohchr.org/EN/Issues/Torture/SRTorture/Pages/model.aspx
Special Rapporteur on trafficking in persons, especially women and children	Ms. Joy Ngozi Ezeilo	srtrafficking@ohchr.org Questionnaire: http://www2.ohchr.org/english/issues/trafficking/questionnaire.htm
Special Rapporteur on violence against women, its causes and consequences	Ms. Rashida Manjoo	vaw@ohchr.org Questionnaire: http://www.ohchr.org/EN/Issues/Women/SRWomen/Pages/IndividualForm.aspx
Working Group on arbitrary detention	Chair: Mr. Malick El Hadji Sow Ms. Shaheen Sardar Ali Mr. Vladimir Tochilovsky Mr. Mads Andenas Mr. Roberto Garretón	wgad@ohchr.org
Working Group on enforced or involuntary disappearances	Mr. Olivier de Frouville Mr. Ariel Dulitzky Ms. Jasminka Dzumhur Mr. Osman El-Hajje Mr. Jeremy Sarkin	wgeid@ohchr.org
Working Group on people of African descent	Ms. Monorama Biswas Ms. Mireille Fanon-Mendes-France Ms. Mirjana Najcevska Ms. Maya Sahli Ms. Verene Shepherd	africandescent@ohchr.org
Working group on the issue of discrimination against women in law and in practice	Ms. Emna Aouij Ms. Kamala Chandrakirana Ms. Frances Raday Ms. Eleonora Zielińska Ms. Patricia Olamendi Torres	wgdiscriminationwomen@ohchr.org Call for submissions: http://www.ohchr.org/EN/Issues/Women/WGWomen/Pages/GoodPractices.aspx
Working Group on the issue of human rights and transnational corporations and other business enterprises	Chair: Mr. Pavel Sulyandziga Mr. Michael K. Addo Ms. Alexandra Guáqueta Ms. Margaret Jungk Mr. Puvan J. Selvanathan	wg-business@ohchr.org For submissions and deadlines: http://www.ohchr.org/EN/Issues/Business/Pages/Submissions.aspx
Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination	Ms. Patricia Arias Ms. Elzbieta Karska Mr. Anton Katz Ms. Faiza Patel Mr. Gabor Rona	mercenaries@ohchr.org Questionnaire: http://www.ohchr.org/EN/Issues/Mercenaries/WGMercenaries/Pages/WGMercenariesIndex.aspx

African Commission on Human and Peoples' Rights Special Procedures

Special Procedure	Name	Contact
Special Rapporteur on Freedom of Expression and Access to Information	Faith Pansy Tlakula	Use form on website
Special Rapporteur on Prisons and Conditions of Detention	Med S.K. Kaggwa	Use form on website
Special Rapporteur on Human Rights Defenders	Reine Alapini-Gansou	Use form on website
Special Rapporteur on Refugees, Asylum Seekers, Migrants and Internally Displaced Persons	Maya Sahli Fadel	Use form on website
Special Rapporteur on rights of Women	Soyata Maiga	Use form on website
Committee for the Prevention of Torture in Africa	Chairperson Catherine Dupe Atoki	Use form on website
Working Group on Economic, Social, and Cultural Rights	Chairperson Mohamed Bechir Khalfallah	Use form on website
Working Group on Death Penalty and Extra-Judicial, Summary or Arbitrary killings in Africa	Chairperson Zainabo Sylvie Kavitesi	Use form on website
Working Group on Indigenous Populations/Communities in Africa	Chairperson Soyata Maiga	Use form on website
Working Group on Specific Issues Related to the work of the African Commission	Chairperson Faith Pansy Tlakula	Use form on website
Working Group on Rights of Older Persons and People with Disabilities	Chairperson Yeung Kam John Yeung Sik Yuen	Use form on website
Working Group on Extractive Industries, Environment and Human Rights Violations	Chairperson Pacifique Manirakiza	Use form on website
Committee on the Protection of the Rights of People Living with HIV and Those at Risk, Vulnerable to and Affected by HIV	Chairperson Lucy Asuagbor	Use form on website

Inter-American Commission on Human Rights Special Procedures

Special Procedure	Name	Contact
Rapporteur on the Rights of Migrants	Felipe González	Send your comments and suggestions to: cidhmigrantes@oas.org Alvaro Botero Navarro, Attorney of the Rapporteurship on the Rights of Migrants e-mail: abotero@oas.org / cidhmigrantes@oas.org
Rapporteur on Human Rights Defenders	José de Jesús Orozco Henríquez	E-mail: cidhdefensores@oas.org Questionnaires with deadlines: http://www.oas.org/en/iachr/defenders/reports/questionnaires.asp
Rapporteur on the Rights of Women	Tracy Robinson	Email: rcelorio@oas.org For questionnaires and deadlines: http://www.oas.org/en/iachr/women/reports/questionnaires.asp
Rapporteur on the Rights of Indigenous Peoples	Dinah Shelton	E-mail: cidhdenuncias@oas.org For questionnaires and deadlines: http://www.oas.org/en/iachr/indigenous/reports/questionnaires.asp
Rapporteur on the Rights of Afro-descendants and Against Racial Discrimination	Rose-Marie Belle Antoine	Email: OSobers@oas.org
Rapporteur on the Rights of Children	Rosa María Ortiz	E-mail: relatorianinez@oas.org
Rapporteur on the Rights of Persons Deprived of Liberty	Rodrigo Escobar Gil	E-mail: apizarro@oas.org To see deadlines for questionnaires: http://www.oas.org/en/iachr/pdl/reports/questionnaires.asp
Unit on Economic, Social and Cultural Rights	Commissioner in Charge: Rose-Marie Belle Antoine	E-mail: ncolledani@oas.org
Unit on the Rights of LGBTBI Persons	Commissioner in Charge: Tracy Robinson	E-mail: cidh_lgtbi@oas.org
Special Rapporteur on Freedom of Expression	Catalina Botero	E-mail: cidhexpresion@oas.org Telephone 202-370-4614

European Mechanisms

Special Procedure	Name	Contact
EU Special Representative for Human Rights	Mr Stavros Lambrinidis	http://eeas.europa.eu/policies/eu-special-representatives/stravos_lambrinidis/docs/team_lambrinidis_en.pdf stavros.lambrinidis@ext.eeas.europa.eu +32(0)2 584 2305
The Human Rights Working Group (COHOM)		http://www.consilium.europa.eu/uedocs/cmsUpload/1.2Contact_points_COHOM.pdf

Appendix L. Checklist for Reporting to UN and Regional Human Rights Mechanisms

Factfinding

- “Traditional” sources:
 - U.S. State Department Human Rights Country Reports: <http://www.state.gov/j/drl/rls/hrrpt/>
 - Amnesty International Reports: <http://www.amnestyusa.org/our-work/countries>
 - Human Rights Watch Reports: <http://www.hrw.org/publications>
 - The Advocates’ Reports: http://www.theadvocatesforhumanrights.org/Human_Rights_Reports.html
 - UK Home Office Reports
 - Country of origin information: <http://www.bia.homeoffice.gov.uk/policyandlaw/guidance/coi/>
 - Country-specific asylum guidance: <http://www.bia.homeoffice.gov.uk/policyandlaw/guidance/csap/>
- Second-tier sources:
 - Law Reviews
 - Credible news reports
- “On the ground” research coordinated with partner organization(s) in the country under review:
 - Interviews
 - Surveys
- Diaspora fact-finding; and
- Extracts from news reports along with corroboration.

Developments in Domestic Law

- ⇒ NOTE: For the Universal Periodic Review, submissions must include discussion of the domestic law framework.
- Description of any (favorable or unfavorable) recent draft legislation or proposed changes in administrative law:
 - Likelihood of enactment, political or other barriers to enactment or enforcement.
- Description of any pending litigation; and
- Description of any (favorable or unfavorable) recently adopted statutes, constitutional amendments, referenda, court rulings, etc.:
 - Reaction to changes, likely effects, implementation and compliance issues.

Other

- Statistics;
- Legal issues about interpretation of treaty language;
- Procedural history with this and other UN bodies, including:
 - “List of issues” references to the issue of the current submission;
 - Relevant concluding observations and any comments in response; and
 - Subsequent actions taken in response to review.
- Quotes from news reports appearing in credible sources;
- Discussion of cultural context;
- Description of caselaw developments;
- Proposals for change;
- Appendix with commentary on the law; and
- Questions for committee members to pose to country representatives during review sessions (can be in the submission itself and/or incorporated into one-pagers for advance advocacy).



10 STEPS TO WRITING A SHADOW REPORT

SET THE STAGE

1 IDENTIFY YOUR EXPERTISE

- What issues do you work on?
- What are the outcomes you advocate for?
- Who can help do the work on this project? What can they do?
 - » Bring them on board as soon as you can.

2 IDENTIFY ALLIES

- What other organizations or experts might be interested in collaborating on the report (Steps 5-8) or “signing on” to your report once you’re done (Step 9)?¹
- Try to find allies in relevant networks or research institutions for up-to-date information.
- A single shadow report supported by a large alliance, or a collection of shadow reports submitted by a broader network, is more powerful than scattered submissions.

3 IDENTIFY THE RELEVANT RIGHTS

- Is the country scheduled for review by a human rights treaty body or for Universal Periodic Review? If so, which treaty or treaties are relevant?
- What is the connection between the work you do and the rights in the treaty under review?²
- Which articles of the treaty are most relevant?
- *Optional: Has a treaty body said anything to clarify these rights in General Comments?*

4 REVIEW THE PROCESS TO DATE

- What has happened so far in the review process about these rights?
 - » Read the outcome of the last review.
 - » Read government’s latest report.
 - » Read the Committee’s list of issues and the government’s response, if any.
 - » *Optional:*
 - *Read reports that non-governmental organizations (NGOs) have submitted during the review process.*
 - *Read the documents from the last review by other human rights mechanisms.*
- *Optional: Are there national, state, or local laws on the issue? What have courts said?*



5 CLARIFY YOUR ROLE

- How can you shed more light on these rights and related issues?³ You might have:
 - » on-the-ground information from the work you do
 - » first-hand accounts about rights being denied, including voices of:
 - victims whose rights have been violated
 - advocates who work with victims
 - witnesses to rights violations
 - » reports your organization has written
 - » other specialized knowledge
 - » other information you think the treaty monitoring body should know about why your work is important or how rights can be better protected and promoted.

6 SET GOALS

- What are your goals for the upcoming review?⁴ Think about what you want the committee members or delegates to say on your behalf, about the issues you care about, in these contexts:
 - » Experts ask the government's delegation questions.
 - » Experts make recommendations to the government under review about how it should better protect and promote human rights, and how it should monitor and assess human rights conditions.

7 MAKE AND IMPLEMENT WORK PLAN

- How can you use your information (Step 5) to help achieve your goals (Step 6)?
 - » Gather the information.
 - » Keep track of the sources of information.
 - » Think about how you can ensure that the information you gather is credible, relevant, and up-to-date.
 - » Include steps to use the report as an organizing opportunity in your community after you submit it (Step 10), such as planning a local hearing.
- *Optional: Develop a communications plan for raising awareness about your issues and the opportunity offered by the UN review.*
- *Optional: Document additional information.⁵ Consider:*
 - » *interviews*
 - » *observations*
 - » *media monitoring*
 - » *submitting written questions to authorities and gathering responses.*



8 WRITE REPORT

- Set up a report-writing team to take the information from Steps 3, 4, and 7 and draft a brief report.⁶ Incorporate your questions and recommendations (Step 6), revising them in light of what you learned in Step 7. Do not use “abusive” language.

9 FINALIZE AND SUBMIT REPORT

- Submit your final report to the Committee by the deadline.
- If you have to submit hard copies, leave time for the international mail to arrive.
- *Optional: Before you finalize your report:*
 - Ask key stakeholders or other people to review and comment on the draft report.
 - Ask any allies (Step 2) to “sign on” to your report.

10 ADVOCATE FOR YOUR ISSUE

- You can use your report in the context of the upcoming review, and also as a valuable tool for promoting social justice in the longer term.⁷ There are many ways to get the word out:
 - » Engage in education and outreach within your organization, to the public, and to the media.
 - » Develop and implement additional strategies to use your report to promote justice for your community over the longer term.
 - » *Optional: Implement a communications plan (Step 7).*
 - » *Optional: Engage in additional advocacy:*
 - *advocacy with the experts doing the review.*
 - *follow-up outreach when the in-person review happens and final documents from the review are released.*
 - *lobbying the government (federal, state, local) to implement any relevant recommendations.*
 - *Monitoring implementation for the next review.*



ENDNOTES

1. See pp. 143-147 of The Advocates for Human Rights, *Discover Human Rights: A Human Rights Approach to Social Justice Work (July 2011)*, available at www.discoverhumanrights.org/download_dhr_training_manual.html.
2. For help with this step, see the “Where are the Rights?” on p. 47 of *Discover Human Rights*, available at www.discoverhumanrights.org/download_dhr_training_manual.html, and read pp. 124-132. Also see pp. 20-21 of The Advocates for Human Rights, *A Practitioner’s Guide to Human Rights Monitoring, Documentation, and Advocacy* (January 2011), available at www.theadvocatesforhumanrights.org/uploads/final_report_3.pdf.
3. For guidance, see pp. 21-24 of *A Practitioner’s Guide to Human Rights Monitoring, Documentation, and Advocacy*, supra note 2.
4. The activities on pages 130-147 of *Discover Human Rights*, supra note 2, may help with this step.
5. Consult pp. 24-64 of *A Practitioner’s Guide to Human Rights Monitoring, Documentation, and Advocacy*, supra note 2, for suggestions. Also see pp 79-91 of *Discover Human Rights*, supra note 2, on human rights strategies.
6. See pp. 65-81 of *A Practitioner’s Guide to Human Rights Monitoring, Documentation, and Advocacy*, supra note 2, which cover report-writing.
7. For advice on advocacy, see pp. 83-111 of *A Practitioner’s Guide to Human Rights Monitoring, Documentation, and Advocacy*, supra note 2.

USEFUL LINKS - UPR

Universal Periodic Review General Information and Links

Sessions

- The UPR Working group holds three two-week sessions per year. During each session 16 countries are reviewed (48 countries per year). Each review is facilitated by groups of three States, or “troikas”, who act as rapporteurs. NGOs can attend the UPR Working Group sessions and can make statements at the regular session of the Human Rights Council when the outcome of the State reviews are considered.

Submission Requirements:

- Stakeholders’ submissions should be sent through the a new online UPR submissions system (available as of 4 March 2013) and according to the deadlines here: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/NgosNhris.aspx>. All UPR submissions must be submitted and received (through the On-line system for registration of contributions) not later than the day of the given deadline (11:59 p.m.). Late submissions will not be considered.

Quick Links:

- UPR website: [/www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx](http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx)
- UPR sessions: www.ohchr.org/EN/HRBodies/UPR/Pages/UPRSessions.aspx
- UPR and civil society engagement: www.ohchr.org/EN/HRBodies/UPR/Pages/NgosNhris.aspx
- UPR - Practical Guide for Civil Society: www.ohchr.org/EN/HRBodies/UPR/Documents/PracticalGuideCivilSociety.pdf
- UPR Road Map for Civil Society Engagement - http://nhri.ohchr.org/EN/IHRS/UPR/Documents/RoadMap_en_16.09.09.pdf
- Guidelines for UPR submissions: www.ohchr.org/Documents/HRBodies/UPR/TechnicalGuideEN.pdf
- Online UPR submission System: <https://uprdoc.ohchr.org/Account/Login.aspx?ReturnUrl=%2f>
- Working with the UN Human Rights Programme - A Handbook for Civil Society - Chapter VII - UPR - <http://www.ohchr.org/en/AboutUs/CivilSociety/Pages/Handbook.aspx>
- UPR info - <http://www.upr-info.org/>. Geneva-based NGO that provides capacity-building tools to the different actors of the UPR process, including civil society.
- Sample UPR Submissions - www.theadvocatesforhumanrights.org/sample_submissions_2.htm



USEFUL LINKS - TREATY- BODY SPECIFIC

Human Rights Committee

The International Covenant on Civil and Political Rights (ICCPR)

Complaint Mechanism

- ➔ Does not contain an individual complaints procedure within the text of the actual treaty. Complaints procedure is contained in the Optional Protocol to the Covenant. The complaints procedure under the Optional Protocol has been used much more extensively than the procedures under the other treaties.

Sessions

- ➔ The Committee meets three times a year for three-week sessions, normally in March (NY), and in July and October (Geneva). Civil society may attend the Committees meetings as observers.

Submission Requirements:

- ➔ Civil Society may submit written reports two weeks before the session. All information must be submitted in electronic form and in hard copy (at least 25 copies) to the Committee's secretariat.

Quick Links:

- HRC website: www2.ohchr.org/english/bodies/hrc/
- HRC sessions: www2.ohchr.org/english/bodies/hrc/sessions.htm
- HRC civil society engagement: tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&SymbolNo=CCPR/C/104/3
- Model Complaint Form: www.ohchr.org/Documents/HRBodies/ComplaintFormOPICCPR_CAT_CERD.doc

The Committee on Economic, Social, and Cultural Rights

The International Covenant on Economic, Social and Cultural Rights (CESCR)

Individual Complaints

- ➔ Does not contain an individual complaints procedure within the text of the actual treaty. Complaints procedure is contained in the Optional Protocol to the Covenant. As of August 2013, the Protocol has 10 parties and 33 more signatories. It entered into force in May 2013.

Inquiries

- ➔ May initiate inquiries if they have received reliable information containing well-founded indications of serious, grave or systematic violations by a State Party of the rights contained in CESR (Article 11, OP).

Sessions

- ➔ The Committee meets in Geneva and holds two sessions per year, consisting of a three-week plenary and a one-week pre-session working group. Civil society may attend sessions as observers and NGOs who have submitted reports are permitted to make oral presentations.

Submission Requirements:

- ➔ Civil Society may submit written reports a month and a half before the beginning of the session and two months before the beginning of the meeting of the pre-session working group. All information must be submitted in electronic form and at least 20 hard copies should be sent to the secretariat.

Quick Links:

- CESCR website: www2.ohchr.org/english/bodies/cescr/
- CESCR sessions: www2.ohchr.org/english/bodies/cescr/sessions.htm
- CESCR civil society engagement: www.ohchr.org/EN/HRBodies/CESCR/Pages/NGOs.aspx



The Committee on the Elimination of Racial Discrimination The Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Complaint Mechanism

- ➔ Contains an individual complaints procedure that enables individuals, or groups of individuals who believe they have had their human rights violated, the right to complain. Only about 1/3 of the parties have made the declaration recognizing the competence of the committee in receiving individual complaints. As a result, complaints have been registered against less than 10 States.

Sessions

- ➔ The Committee meets in Geneva in February and August for three-week sessions. Civil society can only attend the sessions as observers.

Submission Requirements:

- ➔ Written information must be submitted two months before the Committee's session. An electronic version of the written information as well as 37 hard copies should be submitted to the secretariat.

Quick Links:

- CERD website: <http://www2.ohchr.org/english/bodies/cerd/>
- CERD sessions: <http://www2.ohchr.org/english/bodies/cerd/sessions.htm>
- CERD civil society engagement: <http://www2.ohchr.org/english/bodies/cerd/docs/ICERDManual.pdf>
- Model Complaint Form: www.ohchr.org/Documents/HRBodies/ComplaintFormOPICCCR_CAT_CERD.doc

The Committee on the Elimination of Discrimination Against Women Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)

Complaint Mechanism

- ➔ Does not contain an individual complaints procedure within the text of the actual treaty. Complaints procedure is contained in the Optional Protocol to the Covenant. By becoming a State Party to the Optional Protocol, the State is eligible to receive communications from individuals who claim to be victims of human rights abuses. One-quarter of the State Parties to the Convention have ratified the Optional Protocol.

Inquiries

- ➔ May initiate inquiries if they have received reliable information containing well-founded indications of serious, grave or systematic violations by a State Party of the rights contained in CEDAW (Article 8, OP).

Sessions

- ➔ Committee meets three times a year in both Geneva and New York for two – week sessions. Civil society may attend sessions as observers and are permitted to make oral presentations.

Submission Requirements:

- ➔ Written information must be submitted two weeks before the Committee's session. An electronic copy and at least 35 hard copies should be submitted.

Quick Links:

- CEDAW website: <http://www.ohchr.org/EN/HRBodies/CEDAW/Pages/CEDAWIndex.aspx>
- CEDAW sessions: http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/SessionsList.aspx?Treaty=CEDAW
- CEDAW civil society engagement: http://www.ohchr.org/Documents/HRBodies/CEDAW/CEDAW_NGO_Participation_en.pdf



The Committee Against Torture

The Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)

Individual Complaints

- Contains an individual complaints procedure. Individuals may only submit a complaint if the State Party they are testifying against has ratified the competence of the Committee in receiving complaints (Article 22).

Inquiries

- May initiate inquiries if they have received reliable information containing well-founded indications of serious, grave or systematic violations by a State Party of the rights contained in CAT. (Article 20)

Sessions

- The Committee meets in Geneva and holds two sessions a year. Civil Society can attend as observers. Civil Society actors may brief the Committee orally during the sessions.

Submission Requirements:

- Reports should be submitted six weeks before the Committee's session. All information must be submitted in electronic form and at least 15 hard copies should be sent to the secretariat.

Quick Links:

- CAT website: www2.ohchr.org/english/bodies/cat/
- CAT sessions: <http://www2.ohchr.org/english/bodies/cat/sessions.htm>
- CAT civil society engagement: http://www2.ohchr.org/english/bodies/cat/follow_up_ngo.htm
- Model Complaint Form: www.ohchr.org/Documents/HRBodies/ComplaintFormOPICCCR_CAT_CERD.doc

The Committee on The Rights of the Child

The Convention on the Rights of the Child (CRC)

Individual Complaints

- Contains an individual complaints procedure in the optional protocol to the convention that will enter into force in April 2014.

Inquiries

- May initiate inquiries if they have received reliable information containing well-founded indications of serious, grave or systematic violations by a State Party of the rights contained in CRC. Article 13, OP - has not yet entered into force.

Sessions

- The Committee meets three times a year in Geneva for sessions of three weeks, normally in January, May and September. Selected NGOs will be allowed to attend the committee meetings as observers and make oral presentations.

Submission Requirements:

- Reports should be no more than 30 pages. Reports should be submitted six months after the government report has been submitted. The information should be submitted electronically in both PDF and Word formats and 25 copies should be sent to the secretariat.

Quick Links:

- CRC website: www2.ohchr.org/english/bodies/crc/
- CRC sessions: <http://www2.ohchr.org/english/bodies/crc/sessions.htm>
- CRC civil society engagement: <http://www2.ohchr.org/english/bodies/crc/docs/guidelines-E.pdf>
- CRC Shadow Report Guidance: <http://www2.ohchr.org/english/bodies/crc/docs/Guide-NGO-E.pdf>



The Committee on Migrant Workers

Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW)

Individual Complaints

- Contains an individual complaints procedure that has not yet entered into force. The procedure will become operative once 10 State Parties have accepted this procedure in accordance with article 77 of the Convention.

Sessions

- The Committee meets twice a year in Geneva for sessions of one to two weeks, normally in September and April. Civil Society can attend as observers. NGOs can make oral presentations during special meetings the Committee may hold during each session.

Submission Requirements:

- Reports should be no more than 20 pages. Reports should be submitted as soon as possible after the government report has been submitted. The information should be submitted electronically in both PDF and Word formats and 25 copies should be sent to the secretariat.

Quick Links:

- CMW website: <http://www2.ohchr.org/english/bodies/cmw/>
- CMW sessions: <http://www2.ohchr.org/english/bodies/cmw/sessions.htm>
- CMW civil society engagement: http://www.fidh.org/IMG/pdf/NGOguide_IPMWC_eng.pdf

The Committee on the Rights of Persons with Disabilities

The Convention on the Rights of Persons with Disabilities (CRPD)

Individual Complaints

- Does not contain an individual complaints procedure within the text of the actual treaty. Complaints procedure is contained in the Optional Protocol to the Covenant.

Inquiries

- May initiate inquiries if they have received reliable information containing well-founded indications of serious, grave or systematic violations by a State Party of the rights contained in CRPD (Article 6,OP).

Sessions

- The Committee meets twice a year in Geneva for sessions of one week, normally in February and October. Civil society may attend the Committees meetings as observers.

Submission Requirements:

- Reports should be submitted two months before the Committees session. The information should be submitted electronically in both PDF and Word 97/2003 formats and 25 copies should be sent.

Quick Links:

- CRPD website: <http://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx>
- CRPD sessions: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/Sessions.aspx>
- CRPD civil society engagement: <http://www.ohchr.org/EN/HRBodies/CRPD/Pages/NoteonCivilSocietyParticipation.aspx>
- CRPD shadow report guidance: <http://www.internationaldisabilityalliance.org/en/guidance-document-parallel-reports>



The Committee on Enforced Disappearances

Convention on the Protection of All Persons from Enforced Disappearance (CED)

Individual Complaints

- Contains an individual complaints procedure. Individuals may only submit a complaint if the State Party they are testifying against has ratified the competence of the Committee in receiving complaints (Article 31).

Inquiries

- May initiate inquiries if they have received reliable information containing well-founded indications of serious, grave or systematic violations by a State Party of the rights contained in CED (Article 33).

Sessions

- The Committee meets twice a year in Geneva. Civil society may attend sessions as observers and are permitted to make oral presentations.

Submission Requirements:

- Reports should be submitted two weeks before the Committees session. The information should be submitted electronically in both PDF and Word formats and 20 copies should be sent to the secretariat.

Quick Links:

- CED website: <http://www.ohchr.org/en/hrbodies/crpd/pages/crpdindex.aspx>
- CED sessions: <http://www.ohchr.org/EN/HRBodies/CED/Pages/sessions.aspx>
- CED civil society engagement: <http://www.ohchr.org/EN/HRBodies/CED/Pages/CivilSociety.aspx>
- CED Model Request for Urgent Action: http://www.ohchr.org/Documents/HRBodies/CED/ModelUrgentRequest_en.doc

The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

Optional Protocol to the Convention against Torture (OPCAT) Subcommittee on Prevention of Torture (SPT)

Mandate

- The Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (“SPT”) is different from other treaty bodies in that it has a purely preventive mandate focused on an innovative, sustained and proactive approach to the prevention of torture and ill treatment. The SPT was established pursuant to the provisions of the Optional Protocol of the Convention against Torture (OPCAT)

Functions

- Operational function - This includes visiting all places of detention in State Parties. Under the OPCAT, the SPT has unrestricted access to all places of detention, their installations and facilities and to all relevant information.
- Advisory function - This includes providing assistance and advice to both State Parties and National Preventive Mechanisms (“NPM”). Pursuant to article 17 of the OPCAT, State Parties have an obligation to establish NPMs, which are independent national bodies for the prevention of torture and ill-treatment at the domestic level. The OPCAT provides guidance concerning the establishment of those bodies, including their mandate and powers.

Sessions

- The Committee meets in Geneva three times a year for sessions of one week.

Quick Links:

- SPT website: <http://www2.ohchr.org/english/bodies/cat/opcat/>
- SPT sessions: <http://www2.ohchr.org/english/bodies/cat/opcat/sessions.htm>
- SPT civil society engagement: <http://www.apt.ch/en/resources/the-optional-protocol-implementation-manual/>



USEFUL LINKS - REGIONAL MECHANISMS

AFRICA

African Commission on Human and Peoples' Rights: www.achpr.org/

- Sessions: www.achpr.org/sessions/
- Legal Instruments: www.achpr.org/instruments/
- State Reports and Concluding Observations: www.achpr.org/states/reports-and-concluding-observations/
- NGO Statements: www.achpr.org/search/?t=839

AMERICAS

Inter-American Commission on Human Rights: www.oas.org/en/iachr/ (no periodic reporting)

American Declaration of the Rights and Duties of Man: www.cidh.oas.org/Basicos/English/Basic2.American%20Declaration.htm

American Convention on Human Rights: www.cidh.oas.org/Basicos/English/Basic3.American%20Convention.htm

Other Inter-American Human Rights Instruments: www.oas.org/en/iachr/mandate/Basics/intro.asp

- Questionnaires: www.oas.org/en/iachr/reports/questionnaires.asp
- Hearings: www.oas.org/es/cidh/audiencias/advanced.aspx?lang=en
- Rapporteurship Distribution (by country and theme): www.oas.org/en/iachr/mandate/composition.asp#tab3

EUROPE

Council of Europe Directorate General of Human Rights and Rule of Law: www.coe.int/t/dgi/default_en.asp (no periodic reporting)

- Monitoring Mechanisms: www.coe.int/t/dgi/monitoringbodies_en.asp
- Commissioner for Human Rights: www.coe.int/t/commissioner/About/welcome_en.asp

USEFUL LINKS - GENERAL

A Practitioner's Guide to Human Rights Monitoring, Documentation, and Advocacy (Jan. 2011)

www.theadvocatesforhumanrights.org/a_practitioner_s_guide_to_human_rights_monitoring_documentation_and_advocacy.html

A Guide to International Human Rights Mechanisms

http://www.theadvocatesforhumanrights.org/international_human_rights_mechanisms_2.html

Discover Human Rights: A Human Rights Approach to Social Justice Work (July 2011)

www.discoverhumanrights.org/download_dhr_training_manual.html

Simple Guide to UN Treaty Bodies

<http://www.ishr.ch/guides-to-the-un-system/simple-guide-to-treaty-bodies>

Working with the United Nations Human Rights Programme - A Handbook for Civil Society

<http://www.ohchr.org/en/AboutUs/CivilSociety/Pages/Handbook.aspx>

OHCHR Country Pages

<http://www.ohchr.org/EN/Countries/Pages/HumanRightsintheWorld.aspx>

OHCHR Treaty Bodies Database

<http://tb.ohchr.org/default.aspx>

OHCHR Treaty Bodies Homepage

<http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

Appendix N. OCHCR Fact Sheet on CEDAW Communications



Office of the High Commissioner for Human Rights

How to submit individual complaints under the Optional Protocol to CEDAW

What is CEDAW?

- CEDAW (Committee on the Elimination of Discrimination against Women), established under the Convention on the Elimination of Discrimination against Women¹ (the Convention), is a body composed of 23 independent experts on women's rights from around the world that monitor the implementation of the Convention.
- By ratifying the Convention, States commit themselves to implement its standards at the national level. They undertake to put in place a series of measures to end discrimination against women in all forms. They have the obligation to submit national reports to the Committee on progress made in implementing the Convention.
- The Convention is comprehensive and aims to eliminate discrimination against women in the exercise of both their civil and political rights as well as their economic, social and cultural rights. States parties have an obligation to eliminate discrimination against women through legal, policy and programmatic measures, and include obligations to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise.

What is the Optional Protocol?

- The Optional Protocol is a human rights treaty that complements the Convention. The Committee is responsible for considering all individual complaints submitted under the Optional Protocol² to the Convention. By ratifying or acceding to the Optional Protocol, a State party acknowledges the competence of the Committee to provide views and recommendation regarding written complaints alleging violations of rights set out in the Convention.
- The Optional Protocol creates mechanisms to ensure implementation of the Convention by providing an opportunity for specific redress in individual cases when a State violates women's rights and allows the Committee to highlight the need for more effective remedies at the national level.

¹ The text of the Convention can be found at: <http://www2.ohchr.org/english/law/cedaw.htm>

² The text of the Optional Protocol can be found at: <http://daccessdds.un.org/doc/UNDOC/GEN/N99/774/73/PDF/N9977473.pdf?OpenElement>

Who can submit a Complaint?

- Individuals and groups of individuals from States which have ratified the Convention and its Optional Protocol. Communications may also be submitted on behalf of individuals or groups of individuals with their written consent.

How to submit a Complaint?

- The complaint must be in writing in any of the six official UN languages (English, French, Spanish, Chinese, Arabic and Russian).
- The communication must not be anonymous (individuals may however request that identifying information is concealed in the Committee's final decision).
- The complaint must concern a State party to the Convention and the Optional Protocol³.
- The individual must claim to be a victim of a violation of a right enshrined in the Convention.
- The individual complaint should provide the Committee with the relevant facts, including any supporting documentation, and indicate what provisions of the Convention they claim to have been violated by the State party.
- The complaint must contain information about steps taken to *exhaust domestic remedies* at the national level. This means that the case must have been brought to the national court system's last instance or otherwise evidence why national remedies are ineffective, unavailable or unreasonably prolonged needs to be provided.
- The individual complaint should indicate whether this matter is or has been before any other procedure of international investigation or settlement.

What happens next?

- If the Committee, through its Working Group on communication, decide to register a case, it will transmit the author's communication to the State party which has six months to respond on both its admissibility and merits (two months if the State party challenges admissibility only). The State party's response will then be transmitted to the author, who will be given an opportunity to comment, within a time frame fixed by the Committee. The Committee may request the State party or the author to submit additional written explanations or statements relevant to the issues of admissibility or merits and, if it does so, will give the other party an opportunity to comment within a fixed time frame.
- If the Committee decides that the communication is inadmissible, the case is finished. If it decides that the communication is admissible, the Committee will move on to the merits stage and issues its Views and recommendations on the merits. Within a given period of time, the State is required to submit a written response indicating any action taken on the recommendations by the Committee.
- The model communication form for submitting individual complaints is attached to the fact sheet.

³ States parties to CEDAW: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en and States parties to the Optional Protocol: http://treaties.un.org/Pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-8&chapter=4&lang=en

Model Form for Submission of Communications to the Committee on the Elimination of Discrimination against Women under the Optional Protocol of the Convention

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women entered into force on 22 December 2000. It entitles the Committee on the Elimination of Discrimination against Women, a body of 23 independent experts, to receive and consider communications (complaint) from, or on behalf of, individuals or a group of individuals who claim to be victims of violations of the rights protected by the Convention.

To be considered by the Committee, a communication:

- shall be in writing;
- shall not be anonymous;
- must refer to a State which is a party to both the Convention on the Elimination of All Forms of Discrimination against Women and the Optional Protocol;
- must be submitted by, or on behalf of, an individual or a group of individuals under the jurisdiction of a State which is a party to the Convention and the Optional Protocol. In cases where a communication is submitted on behalf of an individual or a group of individuals, their consent is necessary unless the person submitting the communication can justify acting on their behalf without such consent.

A communication will not normally be considered by the Committee:

- unless all available domestic remedies have been exhausted;
- where the same matter is being or has already been examined by the Committee or another international procedure;
- if it concerns an alleged violation occurring before the entry into force of the Optional Protocol for the State.

In order for a communication to be considered the victim or victims must agree to disclose her/their identity to the State against which the violation is alleged. The communication, if admissible, will be brought confidentially to the attention of the State party concerned.

If you wish to submit a communication, please follow the guidelines below as closely as possible. Also, please submit any relevant information which becomes available after you have submitted this form.

Further information on the Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol, as well as the rules of procedure of the Committee can be found at: <http://www2.ohchr.org/english/law/cedaw-one.htm>.

Guidelines for submission

The following questionnaire provides a guideline for those who wish to submit a communication for consideration by the Committee on the Elimination of Discrimination against Women under the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. Please provide as much information as available in response to the items listed below.

Send your communication to:

Petitions Team

Office of the High Commissioner for Human Rights

United Nations Office at Geneva

1211 Geneva 10, Switzerland

E-Mail : petitions@ohchr.org

1. Information concerning the author(s) of the communication

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children
- Profession
- If relevant, ethnic background, religious affiliation, social group
- Present address
- Mailing address for confidential correspondence (if other than present address)
- Telephone/e-mail
- Indicate whether you are submitting the communication as:
 - Alleged victim(s). If there is a group of individuals alleged to be victims, provide basic information about each individual.
 - On behalf of the alleged victim(s). Provide evidence showing the consent of the victim(s), or reasons that justify submitting the communication without such consent.

2. Information concerning the alleged victim(s) (if other than the author)

- Family name
- First name
- Date and place of birth
- Nationality/citizenship
- Passport/identity card number (if available)
- Sex
- Marital status/children
- Profession
- Ethnic background, religious affiliation, social group (if relevant)
- Present address
- Mailing address for confidential correspondence (if other than present address)

- Telephone/e-mail

3. Information on the State party concerned

- Name of the State party (country)

4. Facts of the complaint and nature of the alleged violation(s)

Please detail, in chronological order, the facts and circumstances of the alleged violations, including:

- Description of alleged violation(s) and alleged perpetrator(s)
- Date(s)
- Place(s)
- Provisions of the Convention on the Elimination of All Forms of Discrimination against Women that were allegedly violated. If the communication refers to more than one provision, describe each issue separately.

5. Steps taken to exhaust domestic remedies

Describe the action taken to exhaust domestic remedies; for example, attempts to obtain legal, administrative, legislative, policy or programme remedies, including:

- Type(s) of remedy sought
- Date(s)
- Place(s)
- Who initiated the action
- Which authority or body was addressed
- Name of court hearing the case (if any)
- If you have not exhausted domestic remedies on the ground that their application would be unduly prolonged, that they would not be effective, that they are not available to you, or for any other reason, please explain your reasons in detail.

Please note: Enclose copies of all relevant documentation.

6. Other international procedures

Has the same matter already been examined or is it being examined under another procedure of international investigation or settlement? If yes, explain:

- Type of procedure(s)
- Date(s)
- Place(s)
- Results (if any)

Please note: Enclose copies of all relevant documentation.

7. Disclosure of your name (s)

Do you consent to the disclosure of your name(s) to the State party should your communication be registered by the Committee in accordance with article 6, paragraph 1 of the Optional Protocol and rule 69, paragraph 1 of the Committee's rules of procedure?

8. Date and signature

Date/place:

Signature of author(s) and/or victim(s):

9. List of documents attached (do not send originals, only copies)

Appendix O. CEDAW Communication Template

Petitions Team
Office of the High Commissioner for Human Rights
United Nations Office at Geneva
1211 Geneva 10, Switzerland
Fax: + 41 22 917 9022
E-mail: tb-petitions@ohchr.org
COMMUNICATION

I. THE AUTHOR OF THE COMMUNICATION

1. [name of attorney or other individual representing the victim]

II. THE VICTIM(S)

1. [name or initials]

and

2. [name or initials of additional person and relationship with first victim]

3. [name or initials of additional person and relationship with first victim]

etc.

III. THE RESPONDENT STATE

[Name of State]

IV. VIOLATIONS OF CEDAW

A) THE FACTS

[detailed recitation of all relevant facts, in chronological order]

[include facts relevant to exhaustion of domestic remedies]

B) THE COMPLAINT

[1-2 paragraph summary of all violations of CEDAW and the State-Party's role in these violations]

a. Violation of Article #

Article #

[relevant text of the article]

[1-10 paragraph summary of how the State-Party violated this article]

b. Violation of Article #

Article #

[relevant text of the article]

[1-10 paragraph summary of how the State-Party violated this article]

c. Violation of Article #

Article #

[relevant text of the article]

[1-10 paragraph summary of how the State-Party violated this article]

d. Etc.

C) THE REQUEST

-Concerning the victim

The Applicant(s) request(s) that the State:

[list of the relief the victim requests]

-Concerning [similarly situated victims] in the State Party

The Applicant(s) request(s) that the State undertakes appropriate measures for:

[list of the broader relief the victim requests on behalf of similarly situated victims in the State Party]

V. Exhaustion of domestic remedies

The author, on behalf of [the victim(s)], submits that all relevant domestic remedies have been exhausted.

VI. Other International procedures

This communication has not been submitted to any other body of the United Nations or to any regional mechanism of international court, tribunal or institution for settlement or investigation. It has not been examined on international level.

VII. Attachments

[list of all documents attached to support the application]

Please note: The documents are here attached in [language] and in case of necessity they shall be further presented in English.

VIII. Date and signature

Appendix P. African Commission Shadow Report Template



African Commission on Human and Peoples' Rights
[number] Ordinary Session
[dates of session]

Report on [issue] in the [name of country]
Under the African Charter on Human and Peoples' Rights
in response to
The [number] Periodic Report of the Government of [country]
presented at
The [number of session] Ordinary Session of the Commission
[date of session]

prepared by

[name of organization]
[description of organization]

and

[name of organization]
[description of organization]

[date of submission]

EXECUTIVE SUMMARY

1. [Summarize the human rights violations your report addresses and your recommendations for action by the Government of _____.

I. _____'s international, regional, and domestic commitments to human rights include [_____].

2. [Identify the relevant treaties that Government has ratified.]

3. [Identify the relevant provisions in Government's Constitution.]

4. [Describe any recent statements by the Government of _____ that it will honor its human rights commitments, e.g., the state report, statements during the Universal Periodic Review.]

II. The Government of _____ has failed to uphold its human rights obligations in the context of [_____].

5. [Give an outline of the topics the report will cover. *Note: This template has 5 topics, but your report may have more or fewer topics.*]

A. [Topic 1]

6. [Summarize the human rights violations addressed in Topic 1.]

7. [Briefly describe the relevant treaty language and how it relates to Topic 1.]

8. [Summarize the "procedural history" of Topic 1. What, if anything, did Government say on the topic during the last African Commission review, during the last Universal Periodic Review, and during the last reviews by the relevant UN treaty bodies? What were the relevant outcomes of those procedures?]

9. [Describe the Government's current position on the topic, as extracted from the latest state report. If the state report is silent on the topic, look to any recent official pronouncements.]

10. [Describe the reality, explaining why the Government's position is inaccurate, incomplete, misleading, or false. Incorporate first-hand accounts and other documentation of human rights conditions on the ground, if relevant.] [*Note: This part will likely take multiple paragraphs. It is the most important and most substantive part of the report.*]

Suggested questions for the delegation from the Government of _____:

•

Suggested recommendations for the Government of _____:

•

B. [Topic 2]

11. [Summarize the human rights violations addressed in Topic 2.]

12. [Briefly describe the relevant treaty language and how it relates to Topic 2.]

13. [Summarize the "procedural history" of Topic 2. What, if anything, did Government say on the topic during the last African Commission review, during the last Universal Periodic Review, and during

the last reviews by the relevant UN treaty bodies? What were the relevant outcomes of those procedures?]

14. [Describe the Government's current position on the topic, as extracted from the latest state report. If the state report is silent on the topic, look to any recent official pronouncements.]
15. [Describe the reality, explaining why the Government's position is inaccurate, incomplete, misleading, or false. Incorporate first-hand accounts and other documentation of human rights conditions on the ground, if relevant.] *[Note: This part will likely take multiple paragraphs. It is the most important and most substantive part of the report.]*

Suggested questions for the delegation from the Government of _____:

-

Suggested recommendations for the Government of _____:

-

C. [Topic 3]

16. [Summarize the human rights violations addressed in Topic 3.]
17. [Briefly describe the relevant treaty language and how it relates to Topic 3.]
18. [Summarize the "procedural history" of Topic 3. What, if anything, did Government say on the topic during the last African Commission review, during the last Universal Periodic Review, and during the last reviews by the relevant UN treaty bodies? What were the relevant outcomes of those procedures?]
19. [Describe the Government's current position on the topic, as extracted from the latest state report. If the state report is silent on the topic, look to any recent official pronouncements.]
20. [Describe the reality, explaining why the Government's position is inaccurate, incomplete, misleading, or false. Incorporate first-hand accounts and other documentation of human rights conditions on the ground, if relevant.] *[Note: This part will likely take multiple paragraphs. It is the most important and most substantive part of the report.]*

Suggested questions for the delegation from the Government of _____:

-

Suggested recommendations for the Government of _____:

-

D. [Topic 4]

21. [Summarize the human rights violations addressed in Topic 4.]
22. [Briefly describe the relevant treaty language and how it relates to Topic 4.]
23. [Summarize the "procedural history" of Topic 4. What, if anything, did Government say on the topic during the last African Commission review, during the last Universal Periodic Review, and during the last reviews by the relevant UN treaty bodies? What were the relevant outcomes of those procedures?]

24. [Describe the Government's current position on the topic, as extracted from the latest state report. If the state report is silent on the topic, look to any recent official pronouncements.]
25. [Describe the reality, explaining why the Government's position is inaccurate, incomplete, misleading, or false. Incorporate first-hand accounts and other documentation of human rights conditions on the ground, if relevant.] *[Note: This part will likely take multiple paragraphs. It is the most important and most substantive part of the report.]*

Suggested questions for the delegation from the Government of _____:

-

Suggested recommendations for the Government of _____:

-

E. [Topic 5]

26. [Summarize the human rights violations addressed in Topic 5.]
27. [Briefly describe the relevant treaty language and how it relates to Topic 5.]
28. [Summarize the "procedural history" of Topic 5. What, if anything, did Government say on the topic during the last African Commission review, during the last Universal Periodic Review, and during the last reviews by the relevant UN treaty bodies? What were the relevant outcomes of those procedures?]
29. [Describe the Government's current position on the topic, as extracted from the latest state report. If the state report is silent on the topic, look to any recent official pronouncements.]
30. [Describe the reality, explaining why the Government's position is inaccurate, incomplete, misleading, or false. Incorporate first-hand accounts and other documentation of human rights conditions on the ground, if relevant.] *[Note: This part will likely take multiple paragraphs. It is the most important and most substantive part of the report.]*

Suggested questions for the delegation from the Government of _____:

-

Suggested recommendations for the Government of _____:

-

III. Conclusion

31. [Restate your main points and your most important recommendations.]

Resources for Human Rights Defenders

A Human Rights Defender (HRD) is a person or group that works on the front lines to promote and protect human rights. Because Human Rights Defenders are directly challenging human rights abuses by governments and private parties, their own rights can be endangered. This resource sheet is designed specifically for Human Rights Defenders, providing information about safety and security, emergency assistance for at-risk HRDs, and advocacy tools.

EMERGENCY GRANTS:

General Emergency Grants

Frontline Defenders

www.frontlinedefenders.org/security-grants-programme
Frontline Defenders provides grants to organizations and individual at-risk HRDs. Send grant applications to grants@frontlinedefenders.org.

Agir Ensemble pour les Droits de l'homme (AEDH)

http://www.aedh.org/new_en/
AEDH provides emergency funding for persecuted or threatened Human Rights Defenders (NGO members, lawyers, journalists, union leaders, etc.).

Amnesty International

www.amnesty.org
AI's relief program provides human rights defenders and victims of human rights violations in emergency situations with funding for assistance such as legal aid, emergency flights, living costs, and trial observation or security equipment. Email: amnestyis@amnesty.org.

Prisoners of Conscience Appeal Fund

<http://www.prisonersofconscience.org/grants/default.aspx>
The Fund provides grants to persons who have suffered persecution for their beliefs, provided they have not used or advocated violence. Individuals must be represented by an organization. Send applications to grantsofficer@prisonersofconscience.org.

Fund for Global Human Rights

<http://www.globalhumanrights.org/>
The fund provides human rights defenders from any country with emergency assistance related to security, urgent projects, medical, psychological, legal, and relocation services.

Observatory for the Protection of Human Rights Defenders (Joint Program of the FIDH-OMCT)

<http://www.fidh.org/Appeals-Urgents?lang=en>
The fund provides human rights defenders, their families, and at-risk organizations with emergency assistance including security, medical fees, psychosocial support, relocation, legal fees, and basic needs. Email Alexandra Poméon (FIDH Head) at: apomeon@fidh.org.

EMERGENCY GRANTS:

Targeted Emergency Grants

Urgent Action Fund for Women's Human Rights

General: urgentactionfund.org
Africa: www.urgentactionfund-africa.or.ke
Latin America: www.fondoaccionurgente.org.co
UAF provides emergency grants to women HRDs. Applications and forms are available on the website. Send applications to:
proposals@urgentactionfund.org (general);
proposals@urgentactionfund-africa.or.ke (Africa);
info@fondoaccionurgente.org.co (Latin America).

Euro-Mediterranean Foundation of Support to Human Rights Defenders

www.emhrf.org/en/grants.php
EMHR provides emergency grants to HRDs in the South-Mediterranean region. Send grant applications to grants@euromedrights.net.

Scholars at Risk

scholarsatrisk.nyu.edu
Scholars at Risk provides sanctuary by offering temporary academic positions to at-risk scholars, professors, lecturers, researchers, and other intellectuals who suffer threats in their home country.

Committee to Protect Journalists

www.cpj.org/campaigns/assistance/how-to-get-help.php
The Committee to Protect Journalists maintains a small assistance program for journalists who are at-risk as a result of their work. Send grant requests to JournAsst@cpj.org, Attn: Journalist Assistance Program.

Resources for Human Rights Defenders

ADVOCACY TOOLS:

The Advocates for Human Rights

A Guide to International Human Rights Mechanisms is a basic tool for international human rights advocacy with the UN and regional treaty bodies.

www.theadvocatesforhumanrights.org/international_human_rights_mechanisms_2.html

A Practitioner's Guide to Human Rights Monitoring, Documentation, and Advocacy covers every step in the human rights documentation and advocacy process.

www.theadvocatesforhumanrights.org/a_practitioner_s_guide_to_human_rights_monitoring_documentation_and_advocacy.html

Amnesty International

Amnesty International Campaigning Manual is a guide to conducting various types of human rights campaigns.

www.amnesty.org/en/library/info/ACT10/002/1997

Asia Pacific Forum on Women, Law and Development

Claiming Rights, Claiming Justice: A Guidebook on Women Human Rights Defenders contains advocacy tools specifically tailored for women HRDs.

www.apwld.org/resources/apwld-publications/

(English, French, Spanish)

www.defendingwomen-defendingrights.org

(Arabic, Thai)

Global Voices Advocacy

Global Voices Advocacy provides tools for advocacy blogging and online advocacy campaigns.

advocacy.globalvoicesonline.org/projects/guide

Tactical Technology Collective

The Tactical Technology Collective offers several toolkits and guides to support a variety of advocacy strategies.

www.tacticaltech.org/toolkitsandguides

Updated January 2014

INTER-GOVERNMENTAL MECHANISMS:

UN Special Rapporteur on the Situation of Human Rights Defenders

www.ohchr.org/EN/Issues/SRHRDefenders/Pages/SRHRDefendersIndex.aspx

The Special Rapporteur supports the implementation of the UN Declaration on Human Rights Defenders by receiving and acting on reports of violations against HRDs. Send concerns to urgent-action@ohchr.org.

Inter-American Commission on Human Rights, Rapporteurship on Human Rights Defenders

www.oas.org/en/iachr/defenders/default.asp

The Office of the Rapporteur monitors the security of HRDs in the Americas and encourages the Inter-American Commission on Human Rights to protect threatened HRDs. Send concerns to cidhdefensores@oas.org.

African Commission, Special Rapporteur on Human Rights Defenders in Africa

www.achpr.org/mechanisms/human-rights-defenders/

The Special Rapporteur supports and protects HRDs in Africa. Send concerns to achpr@achpr.org.

Council of Europe, Commissioner for Human Rights

www.coe.int/t/commissioner/Activities/HRD/default_en.asp

The Commissioner cannot act upon individual complaints, but supports HRDs and their work by acting upon information received and intervening in serious situations. Send concerns to commissioner@coe.int.

The Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe

www.osce.org/odihr

ODIHR's Focal Point for HRDs and National Human Rights Institutions closely monitors conditions for HRDs, identifies issues of concern, and seeks to promote and protect their interests. The Focal Point trains HRDs, supports HRD networks, and may address individual cases where appropriate. Send concerns to office@odihr.pl.



Resources for Human Rights Defenders

REGIONAL NETWORKS:

Central Africa:

REDHAC: Réseau de Défenseurs des Droits Humains de l'Afrique Centrale.

Email: contact@redhac.org.

East Africa:

<http://www.defenddefenders.org/about-ehahrdp/>

East and Horn of Africa Human Rights Defenders Project (EHAHRDP).

West Africa:

<http://westafricandefenders.org/en/>

Reseau Ouest Africain des Defenseurs des Droits Humains/West African Human Rights Defenders Network (ROADDH/WAHRDN).

Email: info@westafricandefenders.org.

Southern Africa:

Southern Africa Human Rights Defenders Trust (SAHRDT).

Email: leopoldoa@osisa.org.

Northern Africa:

<http://www.emhrf.org/>

Euro-Mediterranean Foundation of Support to Human Rights Defenders.

Asia:

<http://www.humanrights.asia/contact-us>

Asian Human Rights Commission.

<http://www.afad-online.org/>

Asian Federation Against Involuntary Disappearances. Email: afad@surfshop.net.ph.

The Americas:

www.acuddeh.org

ACUDEH (Acción Urgente para Defensores de Derechos Humanos, Mexico)

Email: acuddeh@riseup.org or acuddeh@gmail.com

UDEFEGUA (The Human Rights Defenders Protection Unit, Guatemala). Email: udfegua@udfegua.org.

Europe:

www.emhrf.org/en/guidelinesstandard.php

Euro-Mediterranean Foundation of Support for Human Rights Defenders (provides emergency grants) Website:

Email: grants@euromedrights.net

International:

www.frontlinedefenders.org

International Foundation for the Protection of Human Rights Defenders. Email: info@frontlinedefenders.org

Lifeline: Embattled CSO Assistance Fund (provides emergency financial assistance to Civil Society Organizations/Advocates under attack)

www.freedomhouse.org/program/lifeline#.Utaw0_RDt1U Email: Emergency.assistance.inquiries@gmail.com

INTER-GOVERNMENTAL MECHANISMS:

Protectionline

<http://www.protectionline.org>

Protectionline offers resources for HRDs, including a *Protection Manual for Human Rights Defenders*, which covers security, protection, and risk self-assessments. Protectionline also offers online training in security and protection.

Frontline Defenders

www.frontlinedefenders.org/security-training

Frontline Defenders provides resources on personal and digital security, including a *Workbook on Security*, a *Protection Manual for Human Rights Defenders*, and a *Manual on Digital Security and Privacy*.

Human Rights First

www.humanrightsfirst.org/our-work/human-rights-defenders/online-tools-and-manuals-for-human-rights-defenders/

Human Rights First has compiled resources for protecting the privacy and digital security of HRDs, including tips for online activism and general advocacy. The tools show Defenders how to report corruption and abuses from danger zones safely and anonymously.

Peace Brigades International

www.peacebrigades.org

Peace Brigades provides protective accompaniment for HRDs threatened by political violence.

Association for Women's Rights in Development

awid.org; www.defendingwomen-defendingrights.org/resources.php

AWID's *List of Materials and Resources for Women Human Rights Defenders* contains resources for HRDs concerning self-care and self-defense, human rights documentation and monitoring, and topics particularly relevant to women HRDs, including sexual orientation and religious fundamentalism.

AWID's *Urgent Responses For Women Human Rights Defenders At Risk: Mapping And Preliminary Assessment* identifies available resources for addressing needs of women HRDs, including urgent appeals, safe

lklk houses, temporary relocation, stress management, medical and legal assistance, fellowships and awards, advocacy, and contact information for NGOs assisting HRDs.

AWID's *Ten Insights to Strengthen Responses for Women Human Rights Defenders at Risk* aims to ensure that women HRDs are strategic and properly resourced.

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Chapter 2

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Chapter 4

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Appendix A

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Appendix C

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