



Global Training Course



on

Economic, Social and cultural Rights

REPORT



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INTRODUCTION

Eradicating poverty is one of the greatest human development challenges of today. However global poverty cannot be eradicated by isolated projects alone. It can only be eliminated through the adoption and implementation of consistent policies at national, regional and international levels rooted in human rights.

The human rights framework can be a practical, effective approach to eradicating poverty and thereby achieving dignity for all. Increasing awareness of human rights can strengthen and invigorate efforts for change as people learn what obligations and commitments their government and other actors have undertaken to ensure the realization of human rights for all.

Interest in economic, social and cultural (ESC) rights has grown in the past few years. A number of organisations specifically dealing with ESC rights have sprung up and global networks have been formed to encourage communication and exchanges on activities related to ESC rights. Realising the potential of a human rights framework, even some development NGOs are beginning to adopt the “human rights” approach to strengthen their development work. Local organisations and movements working with the poor and socially excluded are becoming part of the human rights movement since their approach and concerns are now increasingly being recognised as falling within the human rights framework.

This training course on economic, social and cultural rights organised by the Dignity International initiative of the North-South Centre in partnership with the Asian Forum for Human Rights and Development (Forum-Asia) and the International Human Rights Internship Program was indeed both necessary and timely. It is perhaps the first course of this kind organised at a global level. Following the call for applications in June 2002, the North-South Centre received over 500 applications from 109 different countries. These figures are testimony to the enormous interest in and demand for training in this area.

Twenty participants were chosen from the 500 applications. For the most part, these participants were active at the grassroots level with social and economic justice movements, worked directly with those living in poverty and social exclusion, or assisted movements working on poverty and social exclusion. Participants included some strategic partners with whom the Centre had already been collaborating.

The training course was based on existing resources and materials, including the *Circle of Rights* training manual developed by our partners. The training was aimed at enabling those working with the grassroots communities to effectively use human rights as an empowering framework in their daily activities.

THE COURSE

Session 1 – Welcome and Introductions

Session objective

- Have an opportunity to get to know something about each other and about each other's work

OPENING

Participants were welcomed by Fifi Benaboud, Senior Advisor to the Executive Director on behalf of the North-South Centre of the Council of Europe, who explained its main areas of work. Aye Aye Win, Coordinator of Dignity International, introduced the Dignity initiative and detailed the preparatory process for this Global Training Course on ESC Rights.

Aye Aye said that there was a real hunger for ESCR training courses and pointed out that the North-South Centre had received over 1,000 inquiries and 500 applications from 109 different countries for this Global Training Course. She outlined the criteria for selection, and introduced other members of the training team.

Ann Blyberg, from the International Human Rights Internship Program, charted the development of IHRIP and its focus on the exchange of experiences around ESC rights. D.J. Ravindran from Forum-Asia pointed out that this was the first time an international course on ESC rights activism had been organised. He also provided some context for the course. He pointed out that participants came with differing levels of expertise – from those working at a local level with pastoralists in East Africa to those working at national level to analyse the effects of development models on ESC rights in Indonesia. In ESC rights work, it was necessary to deal with both the micro and the macro level, which was a challenge. A lack of sufficiently-developed concepts and efficient remedies had also meant that the owners of ESC rights, human beings, had often been ignored. The idea of the training programme is to enable participants to develop tools and knowledge to ensure that ESC rights are enjoyed by everyone.

INTRODUCTIONS

Participants were introduced to each other through a series of activities.

Activity: First impressions

Each participant had a sheet of paper pinned on his/her back. They were asked to write their first impressions on the backs of others. These impressions were shared.

Activity: Sharing through images and objects

Each participant was asked to choose an object or draw a picture to symbolise themselves and their work. After 10 minutes of meditating and/or drawing, each participant shared his/her perspectives.

Activity: Zip-Zap Name Game

The participants formed a circle, learning the names of those on either side of them. The facilitator in the centre picked a participant, calling out “zip” (the participant had to name the person to his/her right) or “zap” (to his/her left). After a while, the facilitator called out “zip-zap” and everyone had to change place. The rounds continued. When the group got the hang of the game, another rule was added. Whoever hesitated or got a name wrong went to the centre of the circle, and was the one who called “zip/zap”.

Session 2 – Agenda and Expectations, a Rights Perspective

SESSION OBJECTIVES

- ❑ To review and comment upon the agenda
- ❑ To describe and share expectations
- ❑ To develop a list of characteristics of what it means and does not mean to work from a rights perspective/using a rights-based approach
- ❑ To identify the value that a rights-based approach adds to a project or programme

Agenda

Ann led the participants through the agenda ([Appendix A](#)), while Marcos explored the process of the course metaphorically using the growth of a tree, as outlined in [Appendix D](#).

Expectations

Ann then invited the participants to share their expectations for the course – using post-its on a flip chart to share what, by the end of the workshop, participants would like to:

- Know
- Understand
- Feel

and also to identify what they hoped would be the long-term impact of the workshop, by finishing the following sentence: “I will consider this workshop to have been a success if, in 6 months time, in my work, I/we....”

Case studies

Ann outlined a process for participants to each develop a case study, which would be central to the later sessions of the workshop. She provided the following guidelines.

Guidelines for case studies

1. Should be a case study of a real problem addressed by their organization.
2. Explain the problem/case/situation.
3. Give something of the context and the history of the problem.
4. Identify those affected.
5. Identify the actors impacting the situation.
6. Describe, do not analyse (other participants will analyse later in the process).
7. One page, single-spaced, typed.

A rights perspective

Working in pairs, the participants discussed the following three questions:

1. What does it mean to work from a rights perspective or using a rights approach?
2. What does it **not** mean to work from a rights perspective or using a rights approach?
3. What is the “added value” of a rights perspective?

The participants’ responses varied. For some these were obvious questions, for others they were not. It was pointed out that the concept of rights was wide and deep.

A rights perspective or a rights approach – what does it mean?

One participant suggested that we needed to start at the basic, descriptive level — “What are rights?” — in order to ensure that there was a basic, common understanding. For another group working from a human rights perspective meant putting people at the centre, enabling them to participate in decision-making. It was about valuing the potential of all human beings. This was considered difficult in the current global neo-liberal economic climate, where economic growth, not human development, is the aim.

A rights approach involved empowerment and changes in power relations. It provided a legal basis for actions, and establishing that states had binding legal obligations. It challenged us to integrate action into a specific conceptual framework. It meant establishing universally applicable standards and not just *ad hoc* solutions to specific situations — taking a holistic approach to all rights.

*A rights based approach did **not** mean* a charity approach. It was not about temporary relief, but about helping to shape a strategy for long-term structural change. It was not neutral. It was political. It could be conflictive as it challenged existing power relations.

In relation to the “value added” of a rights based approach, the participants said that a rights-based approach led to the clear identification of actors and obligations, and required social policies to fulfil rights. It was suggested that the added value lay in the rights themselves. A rights-based approach enhanced effectiveness, because it led to increased pressure to enforce rights and obligations. It led to greater human dignity, self-determination and sustainability.

It put the other person at the centre because it was not centred on narrow interests. Working to develop instruments and mechanisms for the protection of human rights were then available for everyone. Ultimately, it was about added equality, and contributed to the building of a just society. Human Rights were matters of principle and were above ideology. This legitimised them. The approach was more specific and therefore easier and more human to educate for. It included participation.

A discussion ensued regarding the potential conflict between cultural realities and the universality of human rights. This conflict was sometimes ignored and needed to be faced. It was pointed out that human rights were human rights; they did not differ between countries. What differed was their precise application and enforcement. It was also pointed out that their discourse often focused on the abused, not the abusers. Why was there a discourse on poverty and not on wealth, for example?

The discussion was summed up by the resource persons. It was agreed that a rights-based approach did not just add value, but also added complexities or difficulties (such as those just mentioned) to our work. Secondly, standards had to be applied, not just agreed upon. Interpretation was involved. This did not mean the dilution of standards, but the culturally specific and complex application of standards. Thirdly, in interpreting, in engaging in discussion and dialogue, a new consensus emerged. A classic example was Amnesty's work on torture. Torture was not well-defined thirty years ago, but now the content and definition that Amnesty had given to torture were largely agreed upon.

In an overall summation of "A Rights Based Approach" included the following:

A rights-based perspective

- ✓ The human being is at the centre; this entails empowerment and participation.
- ✓ Human beings have rights by virtue of their being human.
- ✓ Rights are used to assess situations; rights are identified/clarified through cases and situations.
- ✓ Rights entail corresponding obligations; obligations fall on States and non-State actors.
- ✓ Obligations are used to assess situations; obligations are identified/clarified through cases/situations.
- ✓ The strategies adopted advance the enjoyment of rights.

Session 3 – Using a Rights-Based Approach

SESSION OBJECTIVES

- To clarify the extent to which participants were using a rights approach in their work on cases/situations
- To identify the benefits to their work of using this human rights approach
- To identify the complexities that had been added to their work by this approach
- To share their learning

Exercise

Working in pairs, the participants identified a case or situation on which their organization was working. Using the list of elements of a rights-based approach, they considered:

- to what extent they had been designing and implementing their work using a human rights perspective/approach;
- how approaching their work in this way enhanced it or made it more complex.

Following the exercise, there was further discussion about the exact meaning of taking a human rights approach. Several participants gave examples from their work.

Maha Nassar from Palestine described how the experience of organizing kindergartens for Palestinian children had led to the empowerment of both children and women by using a human rights approach. Tatjana Peric from Yugoslavia, Lisa Sterzinger from Austria and

Sarah Ossiya from Uganda described projects in their countries which had not been so successful because they had not included key elements of the human rights approach — for example, projects that were not people-centred, not seeking to empower or consult with beneficiaries, and not taking into account the cultural rights of the community. Enrique Gonzalez from Venezuela described a case where, despite their using a rights-based approach, the project was not continued. Lucas Amosse from Mozambique described how his organization adopted a human rights approach even though it did not always use this language, for example, by always involving project beneficiaries in decision-making and ensuring projects enhanced people’s dignity.

Session 4 – Empowerment and Participation

SESSION OBJECTIVES

- ❑ To reflect on moments of empowerment and participation, disempowerment and lack of participation in the participants’ own lives
- ❑ To identify elements in the work of the Forum of the Poor that contributed to the empowerment and participation of the community
- ❑ To share their findings with the whole group

This session focused on empowerment and participation as elements of a rights-based approach.

Exercise

Participants were asked to reflect on and consider:

- a time when they felt empowered and felt they truly participated;
- a time when they felt disempowered and unable to truly participate;
- a time when they made someone else feel disempowered and unable to truly participate;
- a time when they enabled someone else to feel empowered and to truly participate.

Boonthan Verawongse from Thailand then introduced the video on the Assembly of the Poor. The Assembly, which came to the fore in 1995, was a good example of how a human rights approach could empower people affected by poverty and provide tools with which to pressure governments to honour their obligations.

In the discussion following the video, Aye Aye explained how witnessing the Assembly of the Poor had inspired the Global Forum for Poverty Eradication which she co-ordinated for the Council of Europe’s Globalisation without Poverty Campaign in October 1999. She said that what emerged from the process was the need to listen and learn from communities living in poverty and to find ways of encouraging their effective participation. Dignity International was a recommendation from the Global Forum and it was hoped that Dignity would be able to do for poverty what Amnesty had done with respect to certain civil and political rights. Boonthan explained some of the challenges facing the Forum of the Poor movement today.

The participants then separated into five groups to discuss the following **questions**. In the video did you see anybody

- becoming empowered?
- enabling someone else to participate?
- disempowering another person or creating obstacles to another person's participation? (who? when? how?)

Factors for empowerment identified in the video by the participants included: unity, celebration, good planning and team work, sharing of resources and ownership, support from other sectors (for example the media, academics and the middle class), transparency, mutual learning and teaching, specific lists of needs and demands, elements of collective leadership, accumulation of experience, cross-generation participation, and collective democratic processes. The participants suggested that empowerment and participation were mutually reinforcing. Solidarity around common interests gave coherence and unity to the movement and helped us to discover the untapped strength of all human beings.

Obstacles to empowerment identified included: police intervention and the risk of discouragement on return to villages or as a result of the length of the protest. But even physical obstacles could not prevent the power that lay within humans from beginning the empowering process. The session ended with a discussion about whether the Assembly would describe itself as adopting a rights perspective.

It was also agreed that empowerment and disempowerment took place at different levels and was more often embodied in small personal actions and words than in large actions or images. It was important to be aware of one's own actions while working for the empowerment of the disadvantaged.

Session 5 – Where Do Rights Come From?

SESSION OBJECTIVES

- To arrive at a definition of a right
- To identify where rights come from
- To agree on how rights come to be recognised as rights
- To develop a better understanding of the place of standards and rules in our understanding of rights
- To review national and international standards to be used to assess what rights have been violated

Exercise

Everyone was given a Post-it of a particular colour. The facilitator explained the rules applicable to each colour:

- Orange – Can take from all colours
- Blue – Can take from yellow, red, and brown
- Yellow – Can take from red and brown
- Red – Can take from brown and blue
- Brown – Cannot take from any colour

The exercise prompted reflection about redistributing resources nationally and internationally, power relations, the need to fight for rights and build dialogue about them, giving up rights, how rights are recognized, and how we organize and educate around rights, taking into account the identity and background of each one of us.

Some conclusions were drawn from this exercise: the law is not neutral; it almost always reflects the interests of those in power. Rights came before the law. Even where a law is unfair or does not recognize rights, the rights are always there. Rights should not be confused with law.

The discussion was summarised. Power relations existed in every society and internationally. The law might justify these but the law might also help go beyond the power relations. It is possible to reorder power relations. This reordering required a framework. How could we use a human rights framework/standards to reorder these power relations? How could we realise the transformative potential of international human rights law?

Session 5B – Standards

Ann summarised the **objectives of session 5A**, which were:

SESSION OBJECTIVES – 5A

- To arrive at a definition/understanding of a right
- To identify where rights come from
- To agree on how rights come to be recognized

It had emerged in the discussions of the previous days that rights were something that expressed and protected human dignity; they were inherent in the human being; they became recognised through struggle and could then be incorporated into law and practice.

SESSION OBJECTIVES – 5B

- To develop a better understanding of the place of standards and norms in our understanding of rights
- To review national and international standards to be used to assess what rights have been violated

Enrique gave a presentation on national and international standards related to ESC rights. Below are the introductory notes to the presentation and the notes on the structure of the session.

Introduction

Some of the key characteristics of human rights are: the *inherent nature* of rights, their *universality*, the principles of *equal entitlement* and *non-discrimination*, *self-determination* and *participation* in developing a consensus on the recognition of rights. Also rights are *enforceable* by law; international human rights treaties go beyond the declarative nature of initial developments (such as the Universal Declaration on Human Rights) and make States accountable.

International human rights standards are the legal embodiment of a consensus built about rights and corresponding obligations, with which States undertake to comply. They are fundamental tools in assessing the actual enjoyment of rights and violations of rights, and in developing strategies to push for the respect of human rights law.

Human rights standards have two dimensions: **national** and **international**, which are nowadays complementary. Obligations springing from international standards have domestic implications, in the sense of urging States to adopt adequate measures in order to respect, protect and fulfil the human rights embodied in these standards. This is why both national and international standards are relevant to human rights work.

Enrique outlined how human rights came to be recognized at the international level. He highlighted landmarks such as the revolutionary processes of the 18th, 19th and early 20th centuries, the birth of the welfare state, the transformation of international law after the Second World War and the legal recognition of ESC rights in international human rights law in the 1960s. This prompted reforms in the constitutions of many countries, which now include provisions on ESC rights (e.g., South Africa, Philippines, and Venezuela). He emphasised that law is a tool both to maintain and to change social relations, and that civil society had participated extensively in these legal changes.

Exercise

The participants then divided into pairs to discuss how ESC rights were protected in the constitution of their own countries. The purpose of the exercise was for participants to understand how important it was for them to be aware of standards that were applicable to their own countries. In the discussion that followed, reference was made to the processes of reforming the constitutions of Venezuela, Kenya and Thailand to include greater protection of ESC rights.

Enrique then outlined the development of international human rights law.

International human rights law:

- Transforms international public law, by putting the human being at the centre;
- Recognizes rights of human beings, making it the States' duty to respect and fulfil them;
- Establishes international commitments and obligations that States are obliged to fulfil;
- Develops mechanisms for supervising the domestic implementation of standards.

When describing the legal status of the main international HR law documents, he said:

- *Declarations and Recommendations* are letters of intent and are not legally binding, but may at times be considered as international customary law (i.e., Universal Declaration);
- *Treaties* (Conventions and Covenants) are legally binding treaties, which must be observed by States adopting and ratifying them. States that sign them give their commitment to respect them;
- *Resolutions* are agreements of State representatives in international bodies. They are not legally binding, but establish the political will of States;
- *Jurisprudence of the supervising bodies of treaties* is the interpretation of the treaties to guide States' actions and develop contents and obligations. There are

reviews of State Party reports; under certain treaties, case law develops through the review of communications or court procedures.

Process of adopting a treaty – After awareness raised by a social movement or by atrocities of a certain kind or against a certain sector, and the identification of a need for an international instrument to protect the rights involved, there follows a process which may involve:

- a. consensus-building around the development of a draft;
- b. adoption of the final draft by an international body;
- c. signing by States, which means the State considers that domestic policies and laws should be guided by the standards set in the treaty;
- d. ratification, which requires the introduction of a ratification instrument before the decision-making body, and which legally binds the State to comply with standards;
- e. according to domestic law, the treaty may enter into force immediately or a certain legal procedure may need to follow (there are several models, usually involving the legislature);
- f. the treaty only enters into force once a certain number of countries have ratified it (this varies and is specified in the treaty's general provisions).

Treaties include a treaty supervising body, whose functions vary according to the particular treaty, but before which all States that are party to the treaty (states having ratified it) have certain obligations.

International Human Rights Law

UN Charter 1945 – Establishment of United Nations, including commitment to cooperate in achieving international peace and social and economic development.

Art. 1: To achieve international cooperation in... promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.

The UN Charter includes the establishment of an International Court of Justice.

OAS Charter 1948 – Of the same nature as the UN Charter but at a regional level. It includes a proclamation of the Inter-American Charter of Social Guarantees and the American Declaration of Human Rights and Duties. It includes ESC rights, such as the protection of maternity and childhood (art. 7), the right to preserve health and well being (art. 11), the right to education (art. 12), the right to the benefits of culture (art. 13) the right to employment and fair remuneration (art. 14) and the right to social security (art. 16).

Universal Declaration of Human Rights – 10 December 1948 – This was a landmark and starting point of international human rights law. It is a common standard of agreement, not legally binding, but with significant moral importance. It establishes the inherent nature of human rights as belonging to the whole human family and sets forth in 30 articles civil and political rights as well as ESC rights in arts. 22 to 27, including the right to social security, to an adequate standard of living, to work, to education and to freely participate in cultural life.

International Bill of Human Rights – The UN set out to develop the UDHR into a treaty that would legally bind States. Due to the Cold War and conditions of international politics

and to differences in liberal and socialist ideologies, after a long process of drafting and debate, in 1966 the UN adopted two different treaties:

The International Covenant on Civil and Political Rights (ICCPR)
The International Covenant on Economic, Social and Cultural Rights (ICESCR)

Both came into force in 1976. Both preambles establish the interdependence of CP rights and ESC rights.

Main differences between the two treaties

- The ICCPR establishes rights of the individual, whereas the ICESCR establishes the obligations of States, which commit themselves to adopt measures in order to ensure the realization of rights;
- The ICCPR establishes the Human Rights Committee whereas the ICESCR charges the Economic and Social Council with the task of supervising implementation of the Covenant;
- The ICCPR Optional Protocol establishes an individual communications procedure to report rights violations;
- Along with the Universal Declaration, the two Covenants and ICCPR Protocols (one for personal communications, the other to promote the eradication of the death penalty) are referred to as the International Bill of Rights.

In the 1960s, following independence movements in Africa and Asia and due to a progressive presence of a Third World voice in the international arena, there was a relevant (and still ongoing) discussion around social development and peoples' right to self-determination and economic and social development, which was linked to ESC rights.

Enrique continued his presentations as follows.

Other fundamental UN treaties

Along with the ICESCR and ICCPR, there are four other UN treaties that are considered as "fundamental":

- 1965 (1969): *International Convention for the Elimination of Racial Discrimination (ICERD)*, which includes provisions for the respect and protection of the ESC rights of racial and ethnic minorities;
- 1984 (1987): *International Convention Against Torture (ICAT)*, which is relevant especially as related to health rights;
- 1979 (1981): *Convention for the Elimination of All Forms of Discrimination Against Women (CEDAW)*, oriented not only towards the recognition of rights but to the adoption of measures to eliminate discrimination and violence against women. It includes several ESC-related provisions on work, access to health services and education, and the protection of physical integrity;
- 1989 (1990): *International Convention on the Rights of the Child (CRC)*, which imposes a complex system of co-responsibility obligations on families, States and society. It develops the integral protection doctrine for children (up to 18 years), recognising for the first time their condition as having rights. It includes relevant provisions regarding health, education, and protection against exploitation of all kinds, including sexual and economic exploitation. It establishes the principles of

non-discrimination, the best interest of the child, respect for the child's opinion and the right to survival and development.

All these treaties have their respective Committees, but the CEDAW and CRC did not initially include procedures for presentation of communications. A CEDAW Protocol for the purpose has recently been adopted, and the CRC's is in the development stage.

Also of central importance is the *ILO Convention 169 on Indigenous and Tribal Peoples*, which sets out various ESC rights, including the right to land and territory, to participation, to their own education and to health.

Regional systems

Main treaties of regional systems

- African Charter of Human and People's Rights (includes ESC rights) African Charter on the Rights and Welfare of Children (develops and adapts the CRC for Africa);
- European Convention on Human Rights and Fundamental Freedoms (does not include ESC rights);
- The European Social Charter guarantees social rights with the European Social Committee supervising the implementation of the Charter. State Parties are required to submit periodic reports to the Committee. The European Social Charter (revised) remains one of the most advanced regional instruments for the protection of social rights today;
- American Convention of Human Rights (1969/74) (general provision on States' policies before ESC rights);
- Protocol to the American Convention of Human Rights on ESC rights "San Salvador Protocol" (1984, quite similar to the ICESCR, but region-specific, not yet in force).

International Covenant on Economic, Social and Cultural Rights

Art. 2.1 – Obligations: adoption of measures, to the maximum of available resources, progressive realization, international cooperation.

Art. 2.2 – Non-discrimination.

Art. 3 – Equal rights for men and women.

Arts. 4 and 5 – Limitations to the restriction of rights.

Art. 6 to 15:

6 and 7 on work-related rights – Fair remuneration, safe, healthy working conditions, equal opportunities, and rest and leisure.

8 – Right to form trade unions and right to strike.

9 – Right to social security.

10 – Protection of the family, maternity and children.

11 – Adequate standard of living, including food, clothing, and housing.

12 – Right to highest attainable level of health and steps to be taken for full realization.

13 – Right to education and establishment of free basic, secondary, higher and fundamental education systems.

14 – Plan for basic education.

15 – Right to participate in cultural life, benefit from science and technology, and the protection of artistic and intellectual property, freedom of creation and international cooperation.

Some missing issues: land rights and the right to a healthy environment, among others.

Arts. 16 to 25 – Supervision system and role of UN bodies.

Initially the Economic and Social Council (UN Charter body) was responsible.

In 1986, the ESC Rights Committee was established.

Main duties of the ESC Rights Committee:

- State Party reporting/Committees recommendations;
- General comments;
- General debates;
- Calls for redress;
- Optional Protocol for communications procedure.

Other sources of ESCR standards

- ILO – includes Conventions, Declarations and Recommendations;
- UNESCO – includes Conventions, Declarations, mainly related to education, and the protection of cultural heritage;
- Other UN Conventions – against Genocide, for the Protection of Rights of Refugees, Protection of Migrant Workers (not in force).

International legal standards are those set forth in treaties; they are legally binding. Nevertheless, many other instruments and documents can and must be consulted in order to develop further understanding of standards, contents of rights and corresponding obligations. Some are:

- World Health Organisation Constitutions, Declarations and Commitments;
- Declarations and Plans of Action from World Conferences;
- The HABITAT process;
- Sources that further develop understanding of ESC rights contents and obligations;
- Jurisprudence;
- General Comments (mainly the ESCR Committee, but also other committees);
- Limburg Principles on the nature of States' obligations (1986) and Maastricht Guidelines on ESCR violations (1996). Not adopted by any UN body but considered as general doctrine for a better understanding of ICESCR standards.

Examples of processes for developing/clarifying the contents of rights enshrined in the ICESCR

- Civil and political rights. In the 1950s they were in the same vague condition. Thanks to the work of many organisations including Amnesty International, they have been significantly developed and recognised by the Human Rights Committee (ICCPR) and other bodies;
- Labour rights are enshrined in the ICESCR. The main source for understanding and defining them is ILO conventions and documents. This is why the ESCR Committee has not focused so much on developing them;
- Housing rights. Very vaguely as included in the ICESCR. Thanks to the work of organizations such as the Centre for Housing Rights and Evictions (COHRE) and the International Habitat Coalition, the Committee has developed comprehensive jurisprudence included in General Comment 4 and 7;

- Right to food. Same process, thanks to organisations such as the Food Information Action Network FIAN (GC 12);
- Right to highest attainable level of health. Even if initially clearer in the ICESCR, that understanding was cut back by State and other actors' interests. Several initiatives in support of the Committee ended up in the adoption of GC 14.

Developing standards will require:

- Cross interpretation of provisions that address related rights (interdependence);
- International/domestic law (when there's a national strategy involved);
- Provisions/Developments related to rights involved.

Examples:

The right to education

Legal standards: UDHR, ICESCR art. 13, CRC art. 28, UNESCO Convention against Discrimination, CEDAW art. 10, African CPHR art. 17, African Charter on the Rights and Welfare of Children art. 10, San Salvador art. 13, UNESCO Declarations, and others;

Other Sources: Beijing, Copenhagen, and Vienna;

Jurisprudence: GC 11 on the right to education, GC 13 on National Plans, and the European Court;

Others: CERD General Recommendation 41 on Roma, etc.; Constitutional and domestic law.

Others

The right to life developed by the Human Rights Committee (ICCPR) as related to health (GC 6 of the HRC); can also check some WHO documents; right to physical integrity in the ICCPR as related to health rights. All rights have direct or indirect expression in CEDAW and CRC, and most in ICERD. Housing, in the Convention against Genocide and the Habitat process. Trade union rights are covered both under the ILO and the ICCPR (through freedom of association).

Conclusions for action

If the law is biased by power relations, we must change the law in order to place it at the service of the human person/social changes: social justice and self-determination.

Enrique said that changes came about through struggle and participation, which resulted in both revolutionary changes and negotiation processes. These, in turn, push for the redrafting of laws. The HR struggle under international human rights law means the permanent exploration of strategies, including legal strategies, in order to reshape social relations and the power structure, and the law that enshrines rights and establishes States' obligations.

Session 6 – Applying Rights

SESSION OBJECTIVES

- ❑ To review the application of national and international standards to specific cases
- ❑ To apply international standards to a specific case/situation

Ravindran recapped what we had done so far. On the first day we looked at what it meant to take a rights perspective and examined in two elements detail: *empowerment and participation*. Then we had a general discussion about rights and surveyed the relevant international standards.

Ravindran then asked: How would you go about *claiming and applying rights* at the community level? The responses included:

- Understanding the needs of the community;
- Educating and raising awareness about the rights framework;
- Documenting violations;
- Giving examples of models and experiences;
- Taking women into account;
- Ensuring that victims and supporters are interested;
- Understanding the legal system in order to change it;
- Doing research;
- Identifying gaps in international human rights law based on the reality in the field;
- Identifying cultural differences.

The resource person summarised the responses and stated that a situation analysis is essential to devise the strategies identified by the participants. He then introduced an exercise in which the participants analysed a case study.

Exercise

Everyone was shown a picture of Asni and given her story, detailed below. Everyone was asked to identify the elements for a situation analysis. Various factors affecting Asni's rights were identified at an individual, household, community, national and international levels.

Asni's story

Asni, her husband and three children were living in a rural area of the province. They belonged to a local indigenous community that was a minority in the province. In the village they had owned a plot of land where they grew rice and vegetables. Asni was semi-literate and her husband had only completed primary school.

In 1985, the government evicted Asni's family and other small farmers to set up a plantation for producing fruit for export. It was part of the government's policy to develop the economy by encouraging exports. The World Bank supported the plantation project. The government paid some compensation to the evicted farmers. As a small indigenous community they were not able to demand proper compensation.

Asni's husband used the money for his sister's wedding. He also bought clothes, and jewellery for Asni and the children. The compensation money was soon gone. The government did not have a policy or programme for providing alternative occupations or advising the farmers evicted from their land. Without any money or land, the family moved to Jakarta. Asni found a job in a factory as a sweeper. She was not even paid the minimum wage. Male workers were paid more for the same work. The factory did not permit unions to be formed.

Asni's husband found a job in a multinational company producing shoes for export. The workers were not paid minimum wages and there was no insurance or social security benefit. Government policy forbade the formation of unions in factories producing goods for export.

Asni was keen for her children to study. There were no government primary schools near the place they were living. She sent them to a private school and paid high fees for their primary education. Living in a place without proper hygiene, water or sanitation, Asni's daughter was affected by malarial fever, and one of her sons contracted dysentery. The family's medical expenses were constant and high. Asni and her husband balanced the family budget by borrowing money at a high interest rate. They were able to borrow money because they had a monthly income.

In 1997, due to the global stock market crash, the country's economy was affected. The multinational company closed down the shoe factory and moved to another country. Asni's factory also cut down production and Asni lost her job.

Asni and her husband did not have any social security. Asni's children stopped going to school. Asni's daughter became an invalid since she was not able to get proper nourishing food. Without jobs, they were not able to pay the rent and they were evicted from their house. Now they are living on the street.

The following is a summary of factors identified by the participants:

Individual level:

Education, culture, bad planning, gender discrimination, minority and indigenous status, their identity as rural people and migrants, health status.

Household level:

Tradition, culture, lack of hygiene and sanitation, malnutrition, resource-poor, labour, gender divisions in the family.

Community level:

Cultural/community values, lack of advocacy and organizational skills, marginalized minority, workplace exploitation, small voice/bargaining capacity, living conditions (lack of hygiene, water or sanitation) of the urban poor.

National level:

No policy programme for alternative occupation, lack of fulfilment of government obligations, gender discrimination in pay, micro-economic policies, minimum wage, no labour union standards or social security, eviction without relocation policy, lack of food security, high interest rates, no policy on indigenous people.

International level:

International economic policy, IMF/WB and effect of SAPs, financial crash and lack of regulation of global markets, MNCs policies for workers' rights, unjust global economy and exploitation of poor countries.

Lessons learnt from the exercise: there are many factors involved and they are all interlinked. Although much of the responsibility lies with the State or national governments, a variety of actors are responsible, including the government, IFIs, companies (national and international), private investors, and male family members.

Session 7 – Actors and Obligations

SESSION OBJECTIVES

- ❑ To identify actors at different levels implicated in rights violations
- ❑ To review the different elements of State obligations for rights
- ❑ To spell out the nature of those obligations in specific cases
- ❑ To review the legal status of non-State actors vis-à-vis human rights abuses
- ❑ To identify approaches that can be used to hold these actors accountable

The group identified *the nature of the State's obligations* in the case of Asni, i.e., what the state should and should not have done.

The state should have:

- provided better compensation;
- had proper labour policy and worker's rights;
- had a proper health and education policy;
- consulted with local people in designing projects;
- had a policy on minorities and gender discrimination;
- reduced interest rates;
- regulated corporations (MNCs and local);
- had migration provisions and eviction/resettlement policies;
- had rural and urban development policies.

These relate to *obligations to protect* and/or *fulfil*.

The state should not have:

- evicted them without proper resettlement and compensation;
- opened the country to unregulated investment;
- exploited minorities;
- encouraged export at the cost of food security;
- restricted union rights;
- discriminated.

These relate to *obligations to respect*.

Ravindran then gave the following presentation on the nature and content of State obligations regarding ESC rights.

Why define rights?

Most ESC rights remain ill-defined, thus contributing to their non-recognition. Clarity will be established only through practice. Defining ESC rights is important to establish their content, which includes obligations imposed by a right. Without defining rights it is not possible to find out whether progress is being made in realising them.

Standards or laws and their interpretation provide the starting point for defining the content of a right. The ICESCR and the General Comments made by the Committee on Economic, Social and Cultural Rights provide one of the bases for defining ESC rights. This needs to be supported by national laws and jurisprudence.

Clarification on the obligation of states under the ICESCR

The Covenant in Article 2 (1) uses terms like ‘undertake to take steps’, ‘to the maximum available resources’ and ‘achieving progressively the full realization’.

Often it is argued that these terms imply that ESC rights are not rights and they are only aspirations and, therefore, States do not have any legal obligations to realise ESC rights.

Concept of obligation of conduct and obligation of result

The ESCR Committee has applied this concept to show that ESC rights are not mere aspirations and that governments have obligations.

Obligation of conduct means that a State has to undertake a specific step (act or omission). For example, prohibiting forced labour or withdrawing user fees when it affects the accessibility of the poor is an obligation of conduct.

Obligation of result means attaining a particular outcome through the active implementation of laws, policies and programmes, e.g. achieving universal elementary education.

The conduct and result obligations show that the realization of ESC rights is a dynamic process involving both immediate and long-term intervention.

‘Undertakes to take steps’

The Committee has interpreted this term to mean that steps towards achieving full realization must be taken within a short time after a State becomes a party to the Covenant. Such steps should be ‘deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the covenant’.

‘Achieving progressively’

This term reflects the reality of difficulties involved in ensuring full realization of ESC rights. However, it is not an escape clause. The Committee’s position seems to be that it is not enough to wait for the benefits of economic growth or development to trickle down but that continuous improvements are necessary. Most importantly, there should not be any regressive developments.

‘To the maximum of its available resources’

Resources are essential but it is not an escape clause. The Committee has stressed that, ‘in cases where significant numbers of people live in poverty and hunger, it is for the State to show that its failure to provide for the persons concerned was beyond its control’.

The Committee has developed the concept of ‘minimum core obligations’. It means that every state has minimum core obligations to satisfy minimum essential levels of each of the right with the available resources.

According to the Committee, in situations where a significant number of people are deprived of essential foodstuffs, essential primary health care, basic shelter and housing or basic education, it is for the State to show that its failure to provide them was beyond its control. Therefore, minimum standards must be achieved irrespective of economic situation.

Core content and minimum core content

Core content refers to the set of guarantees that constitute a right. Non-discrimination is a core content that applies to all rights. Core content is also specific to particular rights – access to immunization against preventable epidemic or endemic diseases is a core content of the right to health.

Minimum core content is the intangible baseline level that must be guaranteed for all persons in all contexts. It indicates the minimum below which no government should perform whatever the conditions may be.

Supporters of defining a right by using core and minimum core content argue that: it is a way identifying the scope of a right. It sets the minimum and establishes uniform baselines that must be respected irrespective of the availability of resources; and it will help in defining the rights precisely and make them justiciable.

Those who are against argue that: minimum core may be identified with elements that require immediate implementation and elements that are justiciable. It may result in the isolation of the negative obligations from the positive obligations. For example, with regard to right to housing, the core might shift to focusing on the right to due process while conducting evictions. Thus, the stress might be put on civil rights and undermine the process of defining the substantive aspects of ESC rights.

It is important to contribute towards developing a consensus on the key components of rights.

Obligations of non-state actors

Non-state actors (companies and armed opposition groups) impact on the enjoyment of ESC rights.

Human rights law normally protects the individual from the abuse of state power and acts by private persons are not a concern of international law. There are some exceptions; for example individuals are liable when they commit acts of slavery or genocide.

The Women's Convention (CEDAW) requires states to 'take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise'. The CEDAW Committee has interpreted this to mean that 'States may also be responsible for private acts'.

The CERD has a provision prohibiting racial discrimination by 'any person, group or organization'. The Convention on the Rights of the Child is based on the premise that States are obliged to protect the rights of the child in the private sphere and regulate private institutions that care for children.

The Human Rights Committee has stated that 'State Parties should take measures to prevent and punish deprivation of life by criminal acts'.

The CESCR in its General Comments on the right to food has said that State Parties should take appropriate steps to ensure that 'activities of the private business sector and civil society are in conformity with the right to food.'

The Maastricht Principles state that "The obligation to protect includes the State's responsibility to ensure that private entities or individuals, including transnational corporations over which they exercise jurisdiction, do not deprive individuals of their economic, social and cultural rights. States are responsible for violations of economic, social and cultural rights that result from their failure to exercise due diligence in controlling the behaviour of such non-state actors".

Due Diligence Test

It implies that it is the duty of States to take affirmative action to prevent violations of human rights by private actors. The Inter-American Court of Human Rights expounded this principle in the case of Velasquez Rodriguez. The Court held that the state of Honduras was responsible 'for its lack of due diligence in preventing unexplained "disappearances" whether by the state or private actors'.

European Court of Human Rights

With regard to services provided by private enterprises, the European Court of Human Rights has held that a state should not be able to absolve itself of human rights responsibilities by delegating such functions to private enterprises. States retain their obligation to regulate those who take on some of these functions. Citizens should not be deprived of legal redress. Companies, when they take on functions of the state, should be required to respect similar standards of conduct.

Domestic law and domestic remedies

Domestic remedies may be more effective to force states to control corporations. Normally constitutions deal with the relationship between the state and the individual. The South African Constitution under Section 8 of the Bill of Rights allows for a citizen to petition the court alleging that a company has violated his or her rights in the Bill of Rights. The Indian Supreme Court interpreting the Fundamental Right to Life (art. 21) has placed human rights obligations in the field of non-state actors.

In a case related to the prevention of occupational disease, the Indian Supreme Court gave directions to 'the employer, be it the state or its undertaking or private employer... to

prevent pollution of the work place, protect the environment, protect the health of the workman and preserve free and unpolluted water for the safety and health of the people’.

Criminal law and civil law remedies

When death, injury or property damage results from corporate activity it may call for the prosecution of the company or of individual senior company officers for crimes committed by the company.

Claims for compensation are another possible remedy. Claims can be made against a subsidiary. Or, depending on the level of control exercised by the parent company over the subsidiary, it may be possible to sue the parent company.

US Law permitting litigation against corporations for abuses abroad

Based on the 200 year-old Alien Tort Claims Act (ATCA), several cases have been filed against multinational companies (Shell, Chevron, Unocal, Exxon-Mobil and Coca Cola).

The law permits foreigners to sue in US courts for damages for violations of international law related to slavery, genocide, torture, crimes against humanity and war crimes. The complainant has to show that a corporation was linked with the political authorities bound by these norms.

The Unocal case was summarily dismissed by a Federal District Court on the basis that a joint venture was not enough to make Unocal responsible for the abuses. The case is on appeal.

The limitation of using this law is that it is available only in the US and deals mainly with gross violations of civil and political rights. Moreover, the costs are very high. The Unocal appeal has involved several hundreds of thousands of dollars.

The need to establish a stronger universal legal framework

The present norms and procedures are weak and are largely ineffective. It is important to develop this area of work as part of advancing ESC rights.

DEFINING A RIGHT

THE PROVEA MODEL

Provea, a Venezuelan human rights organisation, has been working in the area of ESC rights since 1992. In 1994-95 it undertook an ambitious programme to develop a conceptual framework on the right to health.

It found that there was lack of material providing theoretical reflection on the right to health. It found abundant material on health problems, health policies, the effects of diseases on individuals and communities but nothing on health as a human right or its definition and responsibilities and indicators for evaluating its satisfaction.

It developed material to help understand health as a human right with all its implications.

Provea used the WHO constitution as a starting point. Previously, health was mostly

associated with absence of disease. In 1946 when the WHO was established, health was defined as 'a state of complete, physical, mental and social well-being, and not merely the absence of disease or infirmity'.

Provea interpreted this to mean that health:

- does not lose meaning in the absence of affections and disease. It is centred on prevention, promotion and protection.
- implies the existence of a state of well-being in its broadest sense. Therefore, it not only includes the physical, but also the mental and social components. This concept implicitly carries an integral approach in which all factors relating to human existence, including physical and social environment are linked.
- presupposes a political commitment based on principles of social justice.
- must be considered a fundamental element of social progress rather than merely an economic one, based on a notion of development aimed at the constant improvement of the population's quality of life that contributed to strengthening human dignity.

It quotes the WHO Constitution to establish the fact that health is recognized as a right. The WHO Constitution states, 'To enjoy the maximum degree of health possible to achieve is one of the fundamental rights of all human beings without distinction of race, religion, political ideology or economic social condition'. Provea elaborates this further by saying that states thus acknowledge the right of persons to enjoy the highest degree of health under universal parameters and without discrimination.

Provea clarifies that the right to health is not restricted to access to health care since it would exclude other components of the vision proposed by WHO.

To define the right to health, it looks at various norms such as: international instruments, regional instruments, instruments relating to specific problems or sectors (workers' health, women's health, children's health, that of refugees, the disabled, the mentally ill HIV/Aids patients, etc), and restrictions on other rights imposed by these instruments to safeguard health and national instruments. It also takes into account the gender dimensions of health.

It identifies characteristics or governing principles of the right to health. These are: universality, interdependence and indivisibility, individual and social rights, progressiveness and irreversibility, equality, accessibility, and equity.

It identifies the minimum core contents of the right to health.

It establishes state responsibility or obligations including analysing terms such as maximum available resources, progressive achievement and justiciability.

It examines official health policies and programmes and develops indicators to measure the fulfilment of the right.

Finally it examines the responsibility of international actors (other states, donors etc.).

Following Ravindran's explanation, the group then did an exercise to identify what rights were reflected in the Swedish government's national strategy for public health, taking the ICESCR and other standards as reference points.

Mid-term evaluation

Marcos Andrade conducted the mid-term evaluation. He revisited the 'tree' which he presented on the first day. He also presented another tree (see below) and people were asked to describe where they were on the tree. See [Appendix E](#).

Several suggestions were made about procedures and content: for participants to be told in advance what issues were to be covered the next day (and any useful reading); for more discussion about the myths surrounding ESC rights and for ideas on how international standards and mechanisms could be used in concrete country situations.

Special exercise: responding to myths about ESCR

In response to the suggestion made at the mid-term evaluation, pairs of participants were assigned a myth surrounding ESC rights and asked to prepare arguments to smash the myth. The myths identified were:

1. ESCR are vague, we do not really know what they mean, so they are not really rights.
2. ESCR are not justiciable.
3. Poor countries cannot guarantee ESCR because they require a lot of resources.
4. As they are to be progressively achieved, ESCR are only aspirations, not rights.
5. CP rights are negative rights (don'ts) and this is easy and cheap for a government to guarantee, while ESC rights are positive (do's) and thus require lots of resources.
6. ESCR can only be directive principles of state policy and not fundamental rights.
7. ESCR are collective and thus can only be embodied in state policies while CP rights are individual and so can be enforced by courts.
8. ESCR are second-generation rights (CP rights are first generation).
9. Governments intentionally torture people; they do not intentionally starve people.

Participants responded to the myth as follows:

1. Vagueness: the UN Committee on ESCR and case law has identified the core content of many ESC rights. Many CP rights have also been considered vague and indeterminate, requiring progressive legal interpretation.
2. Justiciability: ESCR have been made justiciable in numerous countries, though mechanisms for justiciability vary. This depends on governments' political will.
- 3-4. Resource-intensive/progressive achievement: many obligations are immediate and cost-free, e.g., non-discrimination.
- 5-7. Negative vs. positive: many CP rights require huge resources (e.g., electoral and justice systems) and entail positive obligations. Many ESC rights impose only negative obligations.
8. First vs. second generation: these are artificial categories and historically incorrect.

9. Governments do not intentionally starve people: you can attribute intention if starvation is the likely result of a policy or action.

Other myths are also advanced, such as the argument that if people are poor, it is because they have somehow contributed to their own situation. Debates often focus on the responsibilities towards the poor rather than the responsibilities of the rich. These myths are still delaying the creation of an individual complaints mechanism related to the ICESCR. They may also prevent accountability around the Millennium Development Goals.

Session 8 – Applying Rights and Obligations

SESSION OBJECTIVES

- To develop further skills in identifying the content of rights and States' obligations, and applying these standards to concrete situations

Exercise

The participants were divided into four working groups, each focusing on one particular right: education, food, housing or health. Each group reported back on the content and nature of each right, based on the relevant General Comments by the UN Committee on ESC Rights.

Right to education (article 13, ICESCR): content, aim, key features (availability, accessibility, acceptability, adaptability, best interest of student); different obligations for primary, secondary and higher education; special topics such as non-discrimination, academic freedom and school discipline; specific examples of immediate and progressive obligations; obligations of non-state actors and IFIs

Right to food (article 11(1), ICESCR): aims, normative content; adequacy and sustainability; obligations and violations; implementation at national level; benchmarks and framework legislation; monitoring, remedies and accountability; states and international obligations.

Right to housing (article 11(1), ICESCR): General Comments 4 and 7. Interdependence with other human rights; aims – to promote peace, security and dignity; basic elements (e.g., privacy, space, security, lighting, ventilation, infrastructure, etc.) Key features: security of tenure, availability of and access to essential services, land access; affordability, habitability, accessibility to vulnerable groups, location, cultural adequacy; state obligations: special attention to vulnerable groups, consultation and participation, coordination, developing a national strategy, effective monitoring, mix of public and private measures, domestic legal remedies, forced evictions as a violation, international cooperation.

Right to health (article 12, ICESCR): interdependence with other rights; need to adopt national plan of action; content of right to maternal and reproductive health; right to healthy workplace environment (supply of safe drinking water and sanitary facilities, industrial hygiene, etc); right to preventive treatment and control of disease; access to

health services; participation in decision making; special topics: vulnerable groups, gender, children and adolescents, older persons, the disabled, the indigenous, non-discrimination principle; obligations: to respect, protect and fulfil (facilitate, provide and promote health); obligation to develop national policies and legal systems; principles of accountability, transparency and judicial independence; freedom to practice traditional care; standards and training of medical personnel; ensure privatisation not a threat to accessibility, etc; develop indicators and benchmarks.

Exercise

The participants were asked to identify the elements of a policy that would incorporate rights standards.

Session 9 – Monitoring and Documenting ESC Rights Abuses

SESSION OBJECTIVES

- ❑ To hear about a number of approaches to monitoring and documenting ESC rights
- ❑ To review some of the particular challenges in monitoring, investigating and documenting ESC rights
- ❑ To clarify the meaning and use of human rights indicators and benchmarks
- ❑ To develop examples of indicators and benchmarks
- ❑ To consider ways in which budget work and budget analysis can be used to monitor ESC rights

Jayne Lima shared the experience of *national rapporteurs on ESC rights in Brazil*. The 1988 Constitution guarantees ten ESC rights, including the right to a minimum wage, and gives special protection to vulnerable groups. Brazil has ratified most key human rights instruments including the ICESCR and the San Salvador Protocol, the CEDAW Convention and Optional Protocol and the ICERD.

However, the Brazilian Platform for ESC Rights wanted to develop monitoring mechanisms to make these rights real in practice and was inspired by the Special Rapporteur system of the UN. A Council of thirteen members (from NGOs, UN and government agencies) appointed 6 national rapporteurs according to certain criteria. They are just beginning their work. Funding is being provided by the government and international agencies.

Their work follows the same process as that of the UN rapporteurs (e.g. using model forms for documenting complaints and undertaking missions). They report to the UN Commission on HR as well as to the National Conference on Human Rights. They also hold theme seminars on specific rights. Their terms of reference define their mandate, powers and the scope of each right. Their reports will include discussion of the context of the right they are investigating, identification of cases of violation and proposals for realisation of the right. They will also include a gender, race, region and age perspective. The rapporteurs will hold a workshop at the World Social Forum in January 2003.

Enrique described Provea's experience in Venezuela. Every 10 December it publishes an annual report on human rights in Venezuela analysing each right. ESC rights have been

given prominence in recent years. This has been important in giving a public profile to ESC issues and has prompted development of better research tools. The report is based on an analysis of public information.

Ann went on to explain that, in order to build a human rights case, you needed to:

- show that the right exists;
- prove that a violation had occurred;
- and demonstrate that the State (or non-state actor) was responsible for the violation.

She also explained how she used certain terms in Session 9:

Monitoring: tracking laws, policies, practices, cases and situations

Fact-finding or investigation: gathering information or data about a case or situation

Documentation: storage of data or information, and records

She outlined challenges faced in documenting ESC rights abuses. They include:

The vagueness of the standards

Government obligations are multifaceted

- Obligations of conduct
- Obligations of result

Generic obligations:

- Respect
- Protect
- Fulfil

Progressive achievement

involves the use of indicators, benchmarks, etc.

- budget analysis

Maximum available resources

- budget analysis

ESC rights address the concerns of groups, rather than just individuals

- statistics and data analysis

Indicators and Benchmarks

Indicator: a tool that shows the direction of something or serves as a sign or symptom

- Evaluates advances made;
- Reveals difficulties encountered;
- Helps develop content.

Human rights indicator: an indicator used to assess the extent of a government's compliance with its human rights obligations.

Results indicator: helps assess fulfilment of government’s obligations to achieve a result, for example, the proportion of children dying from childhood diseases preventable by immunization.

Process indicator: helps assess fulfilment of government’s obligations of conduct, for example, the proportion of children completely immunized against childhood diseases.

Benchmark (for ESC rights): targets established by government in relation to each of the ESC rights obligations that apply to the State concerned (e.g., to have 80% of children fully immunized in 5 years).

Exercise

The participants were asked to develop process and result indicators and propose a benchmark to assess enjoyment of the following four rights:

1. non-discrimination between boys and girls in access to primary education (GC 13 [6][b]).
2. free primary education for all (GC 11[7]).
3. adequate food – “available in quantity and quality sufficient to satisfy the dietary needs of individuals” (GC 12[8]).
4. access to primary health care facilities (GC 14[17]).

Examples of process indicators: number of government campaigns promoting girls’ access to school (1), extent of provision of free school meals (3).

Examples of result indicators: percentage of children enrolled in primary school (2), arm circumference (3).

Examples of benchmarks: 80% of girls are enrolled at school by 2015 (1)

The “Right to Information” video was then shown. The video described the campaign for truthful information about alleged “social development” expenditures by corrupt local authorities in India in the state of Rajasthan. Participants were asked to consider:

- What rights were affected that led to the campaign?
- What obligations were the focus of the campaign?
- How was the monitoring, fact-finding and documentation portrayed in the video used to push for greater respect of ESC rights?
- What specific fact-finding tools were used?
- How did the monitoring and documentation empower those whose rights were affected and encourage their participation?

The session finished with an exercise on **budget analysis**, in which participants asked questions about budget allocation from an ESC rights perspective. Ann also spoke about a recent conference organized in Mexico by Fundar, a Mexican NGO, on human rights-related budget analysis. A report of that meeting can be found at (<http://www.internationalbudget.org>).

Special Evening Session – Human Rights Education Café

In an informal setting, and as a contribution from the youth sector, Marcos introduced the Compass training manual on Human Rights Education produced by the Youth Directorate of the Council of Europe. He led the group in a role-playing exercise entitled "Take a Step Forward" which helped people consider how factors such as discrimination and socio-economic background affected your chances in life and the full enjoyment of human rights (See Appendix F).

Session 10-11 – Strategies

SESSION OBJECTIVES

- ❑ To list strategies that could be used to address ESC rights cases/situations
- ❑ To identify the strategies about which they would like to learn more
- ❑ To share experiences using the prioritised strategies

STRATEGIES OF DIFFERENT ORGANISATIONS INCLUDED:

- Publications and open letters to raise public awareness
- Making submissions to the CESCRC
- Monitoring
- Legislative lobbying
- Intervention in specific cases
- Educating parliament
- “Mock courts” and public enquiries
- HRE education in schools and universities
- Public awareness and media work
- Identifying justiciable test cases
- Mobilizing international NGOs
- Materials to legitimise ESC rights and show their interconnectedness
- Working to develop intergovernmental standards and mechanisms
- Educate communities, including community leaders
- Theme campaigns (e.g., land or labour)
- Training and capacity building
- Thematic training (e.g., on CESCRC, budget analysis or PRSPs)
- Advocacy on globalising human rights (e.g., at WSF)
- Alliance building and networking
- Participatory action research by affected communities
- Influencing other movements
- Code of conduct campaigns, MNCs and corporations
- Demonstrations
- Direct relief/investigation, etc.
- National networking
- International litigation
- Ratification campaigns
- Lobbying of IFIs

These strategies fall into various categories: education; lobbying; community level work, work with courts and legislation; and working at an international level.

The participants were invited to ask each other for clarification about certain strategies.

Some of the participants asked for clarification of some of the legal terms used such as *ratification*, which is a process whereby governments sign international treaties and commit to implementing them domestically.

Participatory action research: a process involving groups of victims interacting and identifying the problems of the community and taking part in the research. An example: the World Bank supported the Pak Mon Dam project in Thailand, which wiped out 200 fish species in the area. The affected communities lobbied to have the dam gates opened and took part in the research documenting the species of fish affected by the dam construction.

Mock courts/ public enquiries: gatherings of intellectuals and others to assess violations of specific rights. For example, the Dynamic Action Group held a public enquiry in Lucknow to which 805 people came to testify in front of a “jury”. The government failed to reply to the findings, so the DAG organized a mass rally of 12,000 people on 10 December to present a memorandum to the government.

Code of conduct: frameworks for governments to monitor the behaviour of companies

Litigation through courts: lobbying the judiciary to ensure consistent and progressive interpretations and informing judges of relevant international case law. Cases on Roma rights have been taken to court at a domestic and international level. Legal strategies are part of broader mobilizations: e.g. the Treatment Action Campaign in South Africa on access to HIV/AIDS treatment. But some aspects of litigation can also be disempowering (e.g. relying on the “expertise” of lawyers, the isolation of victims and delays in justice).

Open letter: e.g., writing to the prime minister on the situation of internally displaced people, and making the letter public, calling on others to take action

Participants then identified several *areas for further discussion and exploration*:

- codes of conduct – holding MNCs and other non-state actors accountable;
- promoting a HR approach at the community and grassroots level;
- negotiations and participatory campaigns.

Enrique gave an example from Venezuela of a process which combined many of the strategies identified: the campaign for access to HIV/AIDS treatment. The campaign had gone through various stages from initial despair to the search for immediate assistance and eventually to pressuring the government to honour its obligations under the right to health. It also involved human rights education and the creation of participatory processes. The campaign resulted in a National Plan of Action that HIV+ people played a key role in implementing.

Session 12 – Developing your Strategies

Working in pairs, the participants were asked to prepare a presentation to the Board of Directors of their organization arguing why and how the organization should address the rights violations implicated in the case. Nine case studies were chosen from those submitted by the participants.

The guidelines for preparing the presentation to their Board were:

Presentation to your Board of Directors/Executive Committee

Develop an argument to be presented to your organisation's Board of Directors or Executive Committee about why and how the organisation should adopt the campaign you are recommending to address the rights violations implicated in the case.

In developing your argument and designing your campaign, you should incorporate all the aspects addressed in the workshop:

- *Identify the rights issues/violations involved, being as specific as possible;*
- *Cite the relevant provisions of the national constitution, if applicable, as well as any relevant provisions of the ICESCR, General Comments and other conventions;*
- *Specify the right or rights on which you are particularly focussing;*
- *Identify the actors and the role they have played;*
- *Identify the obligations that have been violated and by whom;*
- *Specify the actor(s) on whom you are focussing;*
- *Describe how empowerment/participation elements will be built into the design, implementation and evaluation of the campaign;*
- *Describe the information and documentation that will need to be monitored, gathered and/or developed and explain how it should be monitored/gathered and/or developed;*
- *Propose the strategies the organisation should pursue to ensure respect for the right(s) involved and why the strategies proposed are the most promising.*

The Board/Executive Committee will be listening to a lot of presentations, and so you will want to develop a creative and engaging presentation to get their attention.

Session 13 – Presenting your Own Strategies

Case 1: Forced Evictions in Kenya (Andik/ Boonthan)

Case summary – Over 3,000 families were left homeless after the Kenya Wildlife Service (KWS) evicted them from their ancestral land in the Chyulu hills in January 2001. KWS, a government agency, forced the villagers out of the hills in order to expand the world-renowned Tzavo National Park in the eastern part of the country.

The rights affected were:

- ✓ the right to life;
- ✓ the right to land;
- ✓ the right to property;
- ✓ the right to culture.

Moreover, the victims were not given compensation or alternative places to live.

Key Actors

- Kenya Wildlife Service;
- Armed police;
- Affected villagers;
- NGOs – Kenya human rights network;
- Allies and supporters;
- President and Minister of Tourism (send letters to them);
- Parliament and opposition politicians;
- Support of the media;
- Corrupt senior government officials and assistant minister.

Key Intervention

- Education of community organisations;
- Bring cases to court;
- Demonstrations in Nairobi to raise public awareness of the issue;
- Work with the media to pressure various officials (president, etc.).

The campaign will call on

the government to:

- stop forced evictions and allow our community to return to their homeland;
- pay fair compensation to the victims;
- investigate police violence;
- investigate and punish the corrupt officials.

the Parliament to:

- investigate the cases of evictions;
- undertake a fact-finding mission;
- involve public enquiries/testimony;
- promote concepts of human rights and social justice.

Tourism vs. Community Livelihood
\$\$\$ (money) vs. Human life

Why the strategy?

The essence of this strategy was:

- Empowering the victims;
- Justice for the victims;
- Public education/awareness;
- Alliances and networking;
- Protective approach (initiate legislation, e.g. community forest, etc., legal reform);
- Development – what kind, for whom, if not for the people?

In the discussion that followed, Ann asked Boonthan and Andik to be specific about the rights that were being affected and to quote sources of those rights (e.g. ICESCR or the national constitution).

Case 2: Harassment of Farmers in the Philippines (Jaime and Sugandhi)

Case Summary – Moldex Realty Inc. (MRI) is a leading real estate developer, established in 1987. In 1994, the company bought 167 hectares of land in Silang Province from the government and sought permission for land conversion. Under the land-use conversion permit signed by the MRI, it was given five years to convert the cropland for non-agricultural use. After receiving the land conversion permit, 174 farming families were evicted from the area.

Rights affected were:

- ✓ Right to livelihood;
- ✓ Right to housing;
- ✓ Right to education;
- ✓ Right to own property;
- ✓ Right to health.

For the definition of a farmer/peasant – see GC 7.

Particular focus of rights

- right to adequate standard of living;
- right to security.

Actors involved:

- Moldex Realty Inc (MRI);
- Department of Agrarian Reforms (DAR);
- Farmers' Cooperative;
- NGOs.

DAR violations were identified as:

- lack of participation of beneficiaries;
- forced evictions;
- no compensation;
- no social rights.

The broad *strategy* that was recommended was:

- Immediate security to the farmers;
- Negotiation – government and farmers' cooperative;
- Programme development for the farmers.

The essence of the strategy was to develop the capacity of the cooperative, especially women, in improving the livelihoods of the cooperative members.

Case 3: Economic Crisis in Argentina (Vanja and Lucas)

Case summary – the economic crisis in Argentina has been deepening since 1990s as a result of the structural adjustment policies of the international financial institutions. The privatisation measures of the SAPs resulted in an increase in poverty and inequality. Children appear to be the worst affected with as much as twenty percent of children in Argentina suffering from malnutrition.

Rights affected:

- ✓ Right to property;
- ✓ Right to life (malnutrition and death of children);
- ✓ Violation of the Convention on the Rights of the Child;
- ✓ Rights of minorities;
- ✓ Minimum obligation of the state to protect its people.

The focus was on the rights of the child.

Strategies: a two-pronged approach which would also include humanitarian assistance for immediate relief of the victims:

- ✓ Assisting the community through community planning;
- ✓ Meeting MPs;
- ✓ Working with NGOs (both national and international NGOs);
- ✓ Dialogue with the World Bank and the IMF;
- ✓ Working with the media to publicise the children's plight;
- ✓ Writing open letters to UNICEF and the UNHCR;
- ✓ Applying for food aid from the World Food Programme;
- ✓ Fair distribution of food so that it goes to the most needy;
- ✓ Medical care from Doctors without Borders.

In the discussion it was stated that the real violator was not the government of Argentina but the international financial institutions. It was important to look at the larger picture and to take a holistic approach.

Case 4: Southern India (Alba and Thomas)

Case description: The focus of the case was Vinjamur and surrounding villages in Andhra Pradesh, South India. The region was very dry and had been suffering a drought for four years. Small land owners in the area had no means of developing agriculture. The landlords had installed irrigation systems and grow sugarcane, rice, citrus fruits and mangoes. Daily labourers on these farms earned 25 to 50 rupees a day, while a kilo of rice cost more than 10 rupees. People thus could not feed their families on the money they earned from this work. Most children dropped out of school before finishing primary school, particularly girls, because their families took them out of school. Families could afford transportation to school or school materials. The water supply was bad with resulting health problems. Women coped with the housework along with daily labour.

Radio programme
Campaign for better education
Dalit community

Rights affected were:

- ✓ Non-discrimination;
- ✓ Right to clean and healthy environment;
- ✓ Right to health care;
- ✓ Right to work;
- ✓ Right to fair remuneration.

The strategy:

- Village meetings to involve the villagers in how to deal with the situation;
- Setting up special committees and having regular meetings;
- Raising awareness – leaflets, posters, meetings, education campaigns – role plays, dramas, videos, films and case studies;
- Coalition of lawyers to take cases to court;
- Lobbying the government;
- Education – identification of training needs of girls and adults, education committees were formed. Members could represent at least one forum;
- Fund raising;
- Recruitment of teachers;
- Curriculum development, taking the needs of the villages into consideration;
- Surveys to learn from experiences;
- School registers;
- Minutes of the meetings were used;
- Financial report.

Result of the campaigns

1. Illiteracy rate reduced from 90% to 75%.
2. Discrimination rate reduced by 12%.
3. Education of girls – 34% to 17%.

Discussion

1. Child labour – cultural issues.
2. 70% found in Asia.

Families thought they could use the children as labour to supplement the family income. It was important to address the cultural issue and educate their parents. YUVA organised an event which brought about dramatic changes in the attitudes of the families and a reduction in the amount of child labour.

Case 5: Potash mining in North-East Thailand (Josephine/Marie)

Case summary – Canadian-owned Asia Pacific Potash Corporation Limited got a license to exploit the potash mining in the Northeast Thailand. The company influenced the government to amend the law to allow them to operate underground mining without limits for 22 years. If the mining went ahead, it could affect ground water and generate possibly hazardous dust. The villagers were also alarmed about soil erosion affecting their households.

Rights affected

- ✓ Right to health and a healthy environment;
- ✓ Right to participate in decisions that affect their lives;
- ✓ Right to livelihood.

Strategies

- Working and planning with the affected communities;
- Engaging in public awareness campaigns – peaceful protests – outside the country;
- Solidarity around this issue – talk shows, issue on the national agenda;
- HR education – would also work to collect information – general health education;
- Engaging in participatory research to prove the negative impacts of mining;
- Environmental impact assessment;
- Lobbying international organisations – WHO/other committees to reconsider the action;
- Taking the case to court and challenging the company there.

Discussion

In the discussion, the following comments were made: How was it possible to raise awareness of the right to a healthy environment? What about contacting Filipino NGOs who might have campaigned around a similar issue? What kind of pressure should be applied to the company? It was important to explore the possibility of consumer campaigns and trying to make contacts with the Canadian government.

Case 6: Madjermanes in Mozambique (Lisa and Maha)

Case summary – Following Mozambique’s independence in 1975, the government signed a series of bilateral agreements with certain governments, including Germany, to allow some Mozambicans to work there. Due to the changing political and economic climate in Germany and the rest of Europe, the Mozambicans returned home. The German government provided some compensation to the Mozambican government for onward transmission to the returnees (“Madjermanes”). However, these funds disappeared and the returnees were left penniless, without any assistance from their government. The Mozambican government brutally dispersed peaceful Madjermanes’ protests to demand compensation.

Rights affected

- ✓ Right to social security;
- ✓ Right to self-determination and citizenship.

Obligations of the German government

- ✓ Accepting those Madjermanes who wanted to go back to Germany;
- ✓ Compensating the workers on the basis of just rights;
- ✓ Negotiating a fair solution to the ongoing situation of the Madjermanes;
- ✓ Developing a programme to facilitate the return of the Madjermanes.

Obligations of the Mozambican government

- ❖ Transparency regarding individuals’ accounts and information accountability;
- ❖ Developing programmes to give workers access to the labour market;
- ❖ Developing programme for the special needs of children;
- ❖ Developing programmes to integrate the Madjermanes into the society;
- ❖ Immediate release of the Madjermanes in jail and the chance for a fair trial;

- ❖ Developing legal assistance programmes to get compensation;
- ❖ Helping reunite families;
- ❖ Facilitating their move to the place they want to live.

Violations by Mozambican government

- ✓ Right to food;
- ✓ Right to housing, health and education;
- ✓ Right to adequate information;
- ✓ Assembly, association, legal assistance and free movement;
- ✓ Right of families to be reunited;
- ✓ Right to non-discrimination.

Strategy

1. Protection – amnesty, legal advice, assigning lawyers.
2. Protecting special groups – children, women, the disabled – and fundraising.
3. Public hearing, demonstration to release prisoners, work with Amnesty International.
4. Organisation – training, media, monthly meetings, meeting with governmental bodies.

Discussion

The participants asked why the Geneva Convention was used in this context. Why was the focus on the right to social security and not on the ILO wage standards? The presenters were asked to be clear on exactly which sources they were drawing the rights from.

Case 7: Karamojong people (Tanya/Sujit)
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Case summary – 1.2 million people in north-eastern Uganda. They were deeply impoverished pastoralists and indigenous people. They were marginalised by the government’s development schemes, political participation and education.

Actors

- Karamojong community;
- Government, particularly sub-county authorities and the Ministry of Education;
- NGOs;
- The non-Karamojong community.

Rights affected

ICESCR

Article 2: equality in the exercise of rights

Article 3: equal rights of men and women in enjoying ESCR

Article 11: right to an adequate standard of living and improvement of living conditions

Article 13: right to education.

CESCR General Comment 13

Availability

Acceptability

Adaptability

Equality for women and men, and for disadvantaged groups.

ICCPR

Article 25: (a) taking part in public affairs, (b) having equal access to public services.

CERD

Article 2(1)(c): duties of states to review policies on all levels and amend/nullify those with a discriminatory effect

Article 2(2): taking measures in the ESCR field to ensure adequate development of certain groups

Article 5(c): states should prohibit and eliminate discrimination in political rights, in particular the right to take part in the conduct of public affairs and equal access to public services

Article 5(e)(V) education and training.

CEDAW

Article 10(a): the same conditions for women in career and vocational guidance, access to studies, in both rural and urban areas

Article 10(f): reduction of female drop-out rates.

CRC

Article 2(1): rights shall be respected regardless of ethnic origin

Article 28(1): child's right to education (a) compulsory and available free to all, (e) take measures to encourage regular attendance and reduce drop-out rates

Article 29(1): education directed at (a) the development of all talents and abilities to their fullest potential (c) with respect for cultural identity.

ILO Indigenous Convention

Article 2: coordinated measures to include

(2)(a) benefiting on equal footing from all rights and opportunities

(2)(b) promoting full realization of ESCR with respect for cultural identity

(2)(c) assisting them to eliminate socio-economic gaps between them and the rest of the community

Article 5: in applying provisions, government will: (1)(b) establish means for participation to the same extent as the others, including at decision-making levels in administration

Article 7(2): improvement of life conditions including education shall be a priority in economic development in that region

Article 26: government ensures that indigenous people have the opportunity to receive an education on all levels and on an equal footing

Article 27: (1) education programmes to be developed according to special needs, (2) training of group members so that they could be progressively included in the education system

Article 29: imparting of general knowledge to children so that they can participate fully in their own and the national community.

African HR Charter

Article 13(2): right to equal access to public services

Article 17(1): right to education

Article 18(3): states shall ensure the elimination of all discrimination against women

Article 22(1): right to economic, social and cultural development.

Ugandan Constitution

VI: The State shall ensure gender balance and fair representation of marginalised groups on all constitutional and other bodies

X: The State shall take all necessary steps to involve the people in the formulation and implementation of development plans and programmes that affect them

XII(iii): The State shall take special measures in favour of the development of the least developed areas
XIV(i): all developmental efforts are directed at ensuring the maximum social and cultural well-being of the people
XIV(ii): all Ugandans enjoy rights and opportunities and access to education, etc.
XVIII(ii): The State shall take appropriate measures to afford every citizen equal opportunity to attain the highest educational standards possible
HR 33(4): equal treatment of women including participation in political, economical and social activities
HR 34(2): a child is entitled to basic education.

In the discussion that followed, this was an excellent example and analysis of the specific rights that were affected. The strategy on how to deal with rights violations needed to be strengthened.

Case 8: The Xucuru People (Sarah and Soraida)

Case Description – The Xucuru were an indigenous tribe in Brazil, and one of the 215 small indigenous tribes, totalling 345,000 people, the equivalent of 0.2% of the total population. They lived in the State of Pernambuco, North East Brazil and this case was set in the Municipality of Pesqueira. The Xucuru people were undergoing a process that returned their tribal land to them. Big landowners, the state government and the Municipality of Pesqueira opposed the process. The state government and the municipality had commercial plans, including tourism and a pilgrimage centre/shrine. The Xucuru chief who was leading the tribal demands lost his life. Other tribal leaders, and the chief's son, Marcos, lived under threat. Mass action led by the big landowners, and supported by the police, against the Xucuru resulted in mass death. There were criminal acts included the burning of homes and poisoning of water. Other Xucuru tribe people were taken seriously ill.

Rights affected:

- ✓ Right to self-determination;
- ✓ Right to land;
- ✓ Rights to life and dignity;
- ✓ Right to housing;
- ✓ Right to health;
- ✓ Right to a clean and safe environment.

Indigenous People: A Special People Group – They do not consider themselves 'populations' or 'communities' but 'peoples'. They have their own identity and historical rights. They have particular ways of life and organizational forms. They have their own territory, culture and language. Their rights have been specifically recognized and defined internationally. The serious threats that they face and peculiarly fragile conditions within which they live have been recognised. International instruments also recognise the rights of indigenous peoples as *Collective rights, original rights, historical rights*.

At a national level: At least 10 Latin American countries have established the rights of indigenous peoples.

At a regional level: the Inter-American System for the protection of human rights (The Inter-American Commission and the Inter-American Court) – The case had already been

presented to the Commission and they conceded that the Brazilian Government should give protection to the tribe according to the national constitution.

At an international level: The United Nations Working Group on Indigenous Populations / the Committee on the Elimination of Racial Discrimination (CERD) / Human Rights Committee / General mechanisms of ILO for examining complaints.

State obligations to the Xucuru

Obligation to respect and protect

According to the Brazilian Constitution the State has the responsibility to demarcate, protect and respect all their property, and

- ✓ Protect their lives;
- ✓ Protect their right to safety (as they are being threatened with death);
- ✓ Protect them from arbitrary police action against them;
- ✓ Protect their homes from destruction;
- ✓ Protect the river as a source of water for them and the environment in general;
- ✓ Protect their right to organize themselves and benefit from the same rights as non-indigenous people in terms of their political and civil rights.

Obligations to fulfil

- ✓ Their inalienable right to possess, use and benefit from their lands;
- ✓ Their right to clean water and food.

Actors

- The indigenous people;
- All actors that represent the State (municipality, landlords, State Government);
- GAJOP.

Empowerment and Participation Elements

- Consulting the Xucuru people on strategy, including meetings with women's, men's, and children's groups. Tools include focus group discussions and educational games that let them state and articulate their views;
- Developing strategies to be validated by the groups at a series of meetings and seminars;
- Establishing a multi-disciplinary committee including Xucuru community members, lawyers, HR activists, politicians, singers, actors, football players, and experts;
- Engaging in media campaigns to mobilize and publicise the perspectives of the Xucuru. No media interventions will be held by non-indigenous people on the behalf of the Xucuru without the presence of a Xucuru representative;
- Establishing an agreement to ensure that the multi-disciplinary committee provides the Xucuru community with feedback in a timely and transparent manner;
- Marketing and promoting cultural items by the Xucuru themselves to develop pride in their heritage and a sense of ownership and solidarity;

- Establishing Xucuru representation (at least two people) at all meetings about their case;
- Engaging in campaigns by university and other tertiary level students and academia.

Aims of the campaign

- To mobilise and raise awareness on the rights of indigenous people by:
 - Mobilising the Xucuru people;
 - Mobilising other indigenous groups;
 - Mobilising non-indigenous groups;
 - Enforcing the Brazilian Constitution (article on Indigenous rights).

Specific, concrete objectives

According to the petition of the indigenous representatives:

- Remove the chief of police from the area;
- Rebuild the houses destroyed;
- Protect their lives;
- Provide immediate food and clean water;
- Conclude the process of dispossession.

Immediate interventions:

- Security for the Xucuru and other indigenous tribes experiencing the same problem, development of mechanisms to better implement the dispossession of land, and public meetings to clearly state and disseminate the mechanisms using government vehicles;
- Compensation of families who lost loved ones to the violence;
- Disciplinary action for the police, including the removal of the police chief;
- Compensation of families whose homes were destroyed;
- Assurance of protection of water sources and measures to prevent any repetition of the poisoning.

Why this strategy?

- It includes all relevant actors;
- It is based on a participatory approach and the empowerment of the survivors;
- It is comprehensive and includes various interacting elements;
- It combines tangible results (solidarity) and non-tangible results (creating a culture of indigenous rights as part of human rights).

<p>Case Study 9: Justice for the Internally Displaced Roma People in Montenegro (Ignacio and Jinna)</p>
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“We live like this”

Case summary – There were 6,492 Roma in Montenegro who were expelled from Kosovo in July 1999. 1,500 in Konik II Camp lived in unsanitary living conditions with no assistance from the authorities.

Rights affected

- ✓ Non-discrimination (ICESCR: Art. 2);

- ✓ Right to employment (Art 6);
- ✓ Right to social security (Art 9);
- ✓ Right to protection of family (Art 10);
- ✓ Right to food, clothing, housing (Art 11);
- ✓ Right to health (Art 12);
- ✓ Right to education (Art 13/14);
- ✓ Right to cultural rights (Art 15).

Other standards: national law

Aims of the campaign

- To pressure the authorities (local and national) and other relevant actors to take immediate action to resolve the situation of the IDPs in Konik II;
- To raise awareness of their situation in Montenegro and internationally;
- To enable IDPs to understand and claim their rights.

Activities

- Consultation within the communities;
- Research and documentation;
- Educational project;
- “We live like this” poster campaign;
- International denunciation.

Plan of action

5-point Program of Action

- Building new homes for all camp residents meeting requirements of GC 4;
- Ensuring all Roma children have access to free primary education;
- Providing adequate sanitation and other facilities (including free utilities);
- Ensuring access to health services and food security (in line with General Comments);
- Providing access to legal remedies.

*“Chi trubsarasas gajda te trajisaras!!!!
We shouldn't live like this!!!!”*

“Èa Èipe! – Help us to find justice!”

In the discussion that followed, it was felt that the motto could be further explored. A media campaign specialist could be approached. Among children going to pre-schools racial segregation was very high.

Reflections on the case-study exercise

Comments and suggestions included:

- having a devil’s advocate to force us to justify our arguments;
- The benefit of working on cases that you are not familiar with makes you more creative;
- learning about a wide range of diverse issues.

Session 14 – Conclusion and Evaluation

In the verbal evaluation, comments included:

The course was very useful and practical. It was good at addressing differing levels of knowledge on ESC rights. It started with good introductions and there was a logical build-up to the programme. It helped the participants to see the bigger picture beyond their immediate situation. Participants enjoyed the group work and overall group dynamic.

Importance was given to the value of the human relationships created, the sensitivity to diversity, and the participative methodology. The participants appreciated the different methodologies used and welcomed the two videos that were shown.

Some participants felt that the case studies were a very useful learning experience and that the way they were formulated and managed meant that people had a different perspective of working on issues.

Some felt unclear about the aim of the rights perspective and empowerment sessions, but others felt it was necessary to have started with reflections on the human rights approach and empowerment. One exercise involved identifying indicators before addressing what these were. A few commented on the limited time in some of the sessions. It was felt that a guide to the reading materials would have been useful. Difficulty was felt in transferring learning into daily work.

Some who were not previously familiar with international human rights instruments felt confidence in using international standards. It was a useful networking experience.

All participants were given an evaluation form to complete. Results of that written evaluation is attached as appendix C.

CLOSING

Ann invited people to suggest further issues that need to be addressed and thanked the participants for their openness and patience.

Ravindran thanked Ann for systematising the content and process. He also thanked Enrique and Soraida for their contribution, Aye Aye for all her enthusiastic work, Marcos and his colleagues at the North-South Centre for their energy and creativity; and all the participants for their trust, enthusiasm and willingness to work.

Aye Aye thanked Forum-Asia and the IHRIP for agreeing to implement the Global Training Course together and building on the *Circle of Rights* process. She found it an enriching experience and expressed her joy at having been able to bring Marcos and Liam into the process. She thanked the North-South Centre and her colleagues for their support in making this first Global Training Course a reality.

She explained that Dignity International was planning a three-year program in four chapters:

1. **Training and capacity-building** in human rights, hoping they can draw out training courses on particular themes: e.g. training in using the CDESCR, how to get HR introduced into PRSPs.

2. **Regional support action** for Dignity International projects in different regions (e.g. building on what is being done in East Africa and Asia).

3. **Globalising human rights** – being pursued at the World Social Forum. Globalising human dignity and the rights-based approach to the globalisation debate.

4. **Alliance building and networking** between the HR and development/grassroots sectors so that HR can be used for social transformation.

Aye Aye highlighted the participation from different regions/organizations expressing hope that this would stimulate closer contact and collaboration.

Appendix A

Global Training Course on Economic, Social and Cultural Rights 23 November – 1 December 2002 Convento da Arrabida, Portugal

AGENDA

Saturday 23 November

Arrival of participants

Sunday 24 November

- 10.00 – 13.00 Session 1 – Welcome and Introductions
- 13.00 – 14.00 Lunch
- 14.00 – 15.30 Session 2 – Agenda and Expectations, a Rights Perspective
15.30 – 15.45 Tea Break
15.45 – 17.30 Session 2 (continued)

Monday 25 November

- 9.30 – 10.30 Session 3 – Using a Rights-Based Approach
10.30 – 10.45 Tea Break
10.45 – 13:00 Session 3 (continued)
- 13.00 – 14.00 Lunch
- 14.00 – 15.30 Session 4 – Empowerment and Participation
15.30 – 15:45 Tea Break
15.45 – 17:30 Session 4 (continued)
- 20.00 Session 5 – Where do Rights Come From?

Tuesday 26 November

- 9.30 – 10.30 Session 5B Standards
10.30 – 10.45 Tea Break
10.45 – 13.00 Session 6 – Applying Rights
- 13.00 – 14.00 Lunch
- 14.00 – 15.30 Session 6 (continued)
15.30 – 15.45 Tea Break
15.45 – 17.30 Session 7 – Actors and Obligations

WEDNESDAY 27 NOVEMBER

- 9.30 – 10.30 Session 8 – Applying Rights and Obligations
10.30 – 10.45 Tea Break
10.45 – 13.00 Session 8 (continued)

13.00 – 14.00	Lunch
14.00 – 15.30	<u>Session 9 – Monitoring and Documenting ESC Rights Abuses</u>
15.30 – 15.45	Tea Break
15.45 – 17.30	Session 9 (continued)

Special Evening Session – Human rights Education Café

Thursday 28 November

9.30 – 17.30	<u>Session 10-11 – Strategies</u>
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Evening Session: Developing Your Own Strategies

Friday 29 November

9.30 – 10.30	<u>Session 12 – Developing Your Own Strategies (continued)</u>
10.30 – 10.45	Tea Break
10.45 – 13.00	<u>Session 13 – Presenting your Own Strategies</u>
13.00 – 14.00	Lunch
14.00 – 19.00	Tour of the region

Saturday 30 November

9.30 – 10.30	<u>Session 13 – Presenting Your Own Strategies (continued)</u>
10.30 – 10.45	Tea Break
10.45 – 13.00	Session 13 (continued)
13.00 – 14.00	Lunch
14.00 – 15.00	<u>Session 14 – Conclusion and Evaluation</u>
16.00	Transfers to a hotel in Lisbon
	Cultural evening in Lisbon

Sunday 1 December

Departures

Appendix B

Global Training Course on Economic, Social and Cultural Rights 23 November – 1 December 2002

Convento da Arrabida, Apartado 28, 2925 Azeitão, Portugal

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Appendix C

Global Training Course on Economic, Social and Cultural Rights (23 November – 1 December 2002)

EVALUATION REPORT

The following evaluation report is a summary of the written evaluation that the participants completed at the end of the training programme.

1. The participants gave high ratings to many of the sessions in the training course. On a scale of 1 (bad) to 5 (good) many gave ratings of 4-5 for many of the sessions. The overall numerical average was good.

2. In general how far has the ESCR training course responded to your needs and expectations?

All replied that the course had generally fulfilled their expectations. A few commented that the challenge would be to transfer the knowledge and take it forward within their own organisations and communities.

3. What do you think of the general structure of the programme (conception, contents and methods)? What would you change for the future courses?

Participants replied that the course was well thought out and 'friendly'. The introductions gave a sense of ownership and participation. The course progressively built up in a non-threatening manner, and gave room for sharing experience and expertise. A few suggested minor revisions to avoid overlapping in some parts of the course. Some appreciated the broad structure with built-in flexibility. Although the participants were of high quality, knowledge and experience of ESC rights were varied.

One participant added that more work/experiences on the use of regional instruments would have been good.

One commented that the session on a 'rights perspective' needed to be developed a little further and another felt that some sessions like the one on 'budget analysis' needed more time.

It was felt that in the future more clearly focused achievement-based objectives (ABOs) and some guidance for preparatory reading would be useful.

4. Do you believe there was sufficient discussion of the topics included in the programme?

The overwhelming majority of the participants answered affirmatively but a few added that some topics needed a little more time (e.g. 'Applying Rights and Obligations'). Many questions were answered but at the same time many new questions were raised.

5. If not what aspects were not sufficiently covered and why did you need additional coverage?

More coverage of aspects relating to success stories on ESCR campaigns as well as networking at an international level and campaign work with private companies would have been useful.

One participant commented that the session on obligations needed a bit of focussed action. The session on 'Indicators' could have been more neatly presented and there was a need to develop a more specific training tool.

One participant suggested the use of "role play" for the session on "Rights and obligations" and one other suggested more time to work on strategies and to explain the methodology of each campaign.

6. How do you plan to use your knowledge in your work back home?

Replies included the following:

- share knowledge and skills with relevant colleagues in their organisations;
- develop a manual to be used locally using some of the material from the training course;
- use the material and case studies in other training programmes that are planned;
- continue connecting to the issues raised through the case studies;
- use the knowledge to plan new campaigns;
- mainstream human rights to strengthen participation and self determination among pastoral communities and sustainability of programmes using community radio and media features;
- conduct training for churches and facilitate a ESCR workshop for women's groups;
- pay more attention to economic, social and cultural rights and not only civil and political rights as they were doing previously;
- raise awareness of ESCR locally;
- use the knowledge to strengthen grassroots efforts and design human rights campaigns at different levels – at the grassroots, nationally, regionally and internationally;
- co-ordinate training and strategy development within Amnesty International.

7. Do you have proposals for the programme of another course of this kind?

Several called for such training to be continued at a global level, and supplemented/complemented at a regional and national level.

One comment suggested more attention be paid to the development of ESCR education work and giving different country examples.

8. What is your overall assessment of the work of the training team? What were the strengths and weaknesses of the training team? Please be specific.

The participants commented that the training team was "... informal, understanding, inspiring and attentive to the needs of the participants". Overall, participants complemented the good spread of skills within the team and the good use of participatory methodology.

The participants appreciated the daily evaluation of sessions so that they could make the necessary adjustments and create motivation for the work. In a few cases, the discussion was led by a few people and others missed out on what was really happening. There was overall good team work within the training team with openness and flexibility. A few specifically commented on the creative dimension brought in by Marcos Andrade.

9. Which of the training methods used during the programme were most effective and why? Which were the least effective? Please be specific.

A good variety of methods were used. Some felt that "working groups" were most effective as every person can express his/her experiences and thoughts. Some also appreciated the 'teaching', where they were able to receive knowledge and contextualise ESC rights in a

short space of time. Many appreciated the “Exercises” because they were able to apply what they had learnt immediately.

A few suggested that the session on “Where do rights come from?” be redesigned.

Many participants expressed their appreciation of the “Case studies”. They felt it was a “great learning process” and a very powerful method as they were developing strategies for real cases.

A few specifically appreciated the introduction where there was a good group dynamic and the exercise used was fun and meaningful.

10. What do you think of the organisational aspects (advance information, documentation, materials, etc.)?

The overall was excellent. Many appreciated the availability of useful materials and requested introductions to the various documents as well as more direction and guidance on the advanced reading that should be done.

One did not like the isolation of the group in a remote convent!

11. What do you think of the logistical aspects (accommodation, meals and others)?

Excellent. Participants appreciated the hospitality of the staff of the Convent and the beautiful and inspiring location “It’s like being in heaven,” one commented. The high quality of the food was also appreciated. One commented that the ventilation in rooms could be improved, and said that rooms were maybe a bit small for sharing for a week. A few asked for more than one computer with internet access to be made available.

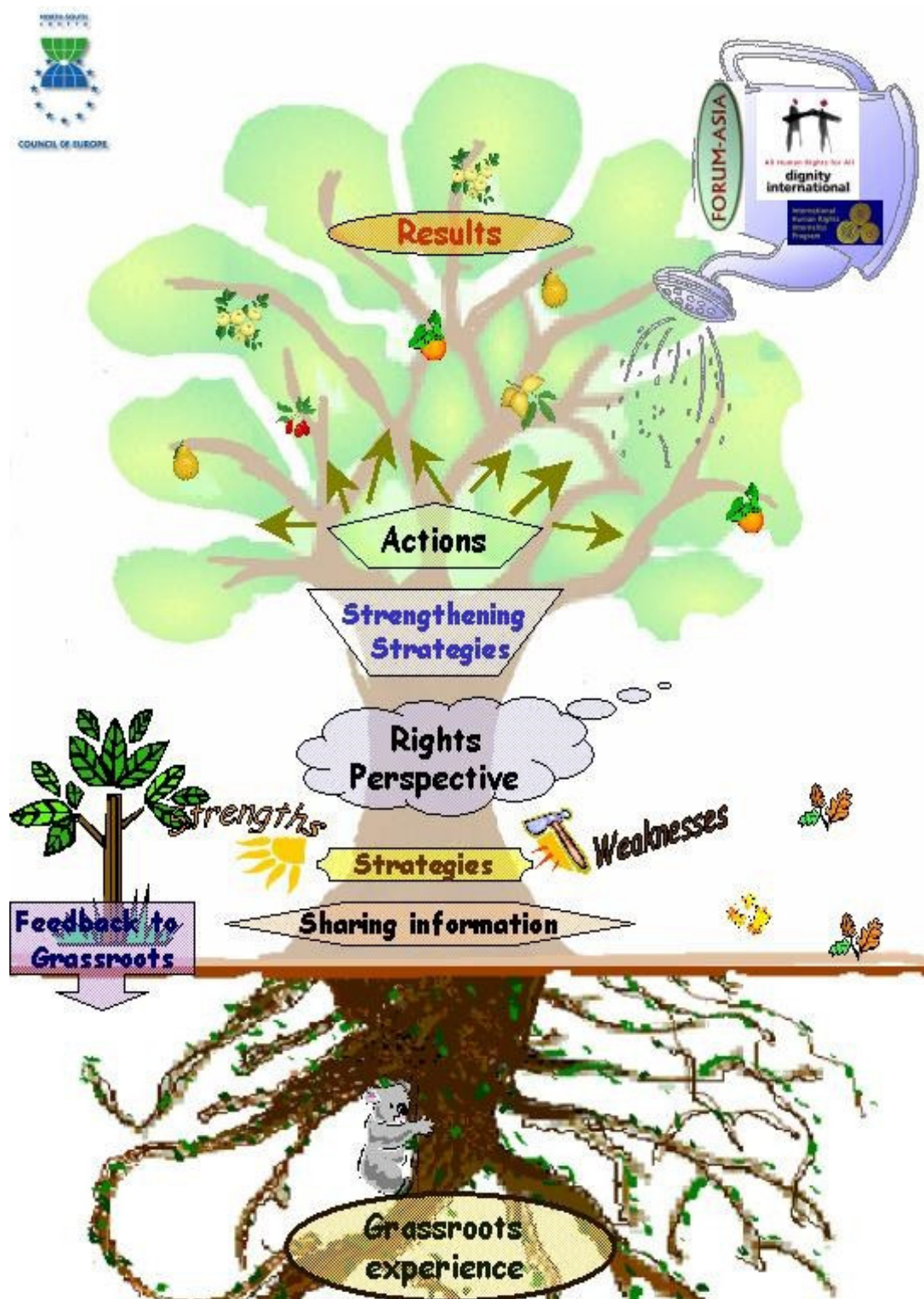
All appreciated the tour and the dinners that were organised.

12. Other comments

Some participants congratulated and thanked the training team and the organisers. They expressed their wish to keep in regular contact especially over various developments related to ESCR. It was felt that this collaboration and friendship should be continued not only among participants but with others. A website bulletin board was suggested.

Several called for regular courses to be organised and to build up regional and global networking on ESCR.

TRAINING COURSE TREE



Appendix E

MID-TERM EVALUATION TREE

Appendix F

TAKE A STEP FORWARD

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