

guide

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group
international



Raoul Wallenberg Institute
of Human Rights and Humanitarian Law

Minority Rights: A Guide to United Nations Procedures and Institutions

By Gudmundur Alfredsson and Erika Ferrer, as updated and revised by Kathryn Ramsay

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Minority Rights Group International

Minority Rights Group International (MRG) is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. Our activities are focused on international advocacy, training, publishing and outreach. We are guided by the needs expressed by our worldwide partner network of organizations which represent minority and indigenous peoples.

MRG works with over 150 organizations in over 50 countries. Our governing Council, which meets twice a year, has members from 10 different countries. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), and observer status with the African Commission on Human and Peoples' Rights (ACHPR). MRG is registered as a charity, no. 282305, and a company limited by guarantee in the UK no. 1533957.

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Raoul Wallenberg Institute of Human Rights and Humanitarian Law

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Contents

Abbreviations and terms used in the text	2
1. Introduction	4
2. Overview of international standards	8
3. Treaty bodies	10
3.1 Introduction	10
3.2 State reporting	10
3.3 General Comments	16
3.4 Complaints mechanisms	21
3.5 Thematic/general discussions	25
4. Charter bodies	27
4.1 Commission on Human Rights	27
4.2 Special procedures	29
4.3 Sub-Commission on the Promotion and Protection of Human Rights	30
4.4 Working Group on Minorities	31
4.5 1503 Procedure	34
5. Other United Nations procedures	36
5.1 International Criminal Courts	36
5.2 Good offices	36
5.3 Research	36
5.4 Technical cooperation	37
6. Annexes	38
6.1 Contact details	38
6.2 How to apply for ECOSOC status	39
6.3 Model communications form for treaty bodies	40
6.4 Guidelines for interventions at United Nations meetings	41
6.5 Special procedures of the Commission on Human Rights	42
Notes	44

Abbreviations and terms used in the text

- **1503 Procedure** – Named after the number of the Resolution of the UN Economic and Social Council. This procedure allows the confidential consideration of complaints by the UN Sub-Commission on the Promotion and Protection of Human Rights and the UN Commission on Human Rights concerning alleged human rights violations that show a consistent pattern of systematic or gross violations.
- **CAT** – The Committee against Torture is a treaty body, with expert members, set up to monitor compliance with the Convention against Torture and other Cruel, Inhuman or Degrading Treatment and Punishment.
- **CEDAW** – The Committee on the Elimination of Discrimination Against Women is a treaty body, with expert members, established under the International Convention on the Elimination of Discrimination Against Women to monitor compliance with the treaty.
- **CERD** – The Committee on the Elimination of Racial Discrimination is a treaty body, with expert members, established under the International Convention on the Elimination of All Forms of Racial Discrimination to monitor the implementation of the Convention.
- **CESCR** – The Committee on Economic, Social and Cultural Rights is a treaty body, with expert members, set up by ECOSOC to monitor state compliance with the International Covenant on Economic, Social and Cultural Rights by examining state reports submitted by states that have ratified the Covenant.
- **CHR** – The Commission on Human Rights is the highest placed forum of the UN devoted solely to human rights issues. It is a subsidiary, functional Commission of ECOSOC.
- **CRC** – The Committee on the Rights of the Child is a treaty body, with expert members, established under the Convention on the Rights of the Child with the purpose of monitoring compliance with the Convention.
- **ECOSOC** – The Economic and Social Council is a principal organ of the UN, responsible for the coordination of the economic and social work of the UN and its specialized agencies, including human rights and minority rights.
- **ECOSOC status** – The accreditation that NGOs can receive from the ECOSOC that regulates their participation in UN meetings.
- **GA** – The General Assembly is the highest body in the UN.
- **Good offices** – Term used when the UN Secretary-General or High Commissioner for Human Rights helps resolve a human rights problem.
- **High Commissioner** – The High Commissioner for Human Rights is, next to the Secretary-General, the highest-ranking UN official in the human rights field. The Office of the High Commissioner is based in Geneva, with a liaison office in New York and field offices in a growing number of states.
- **HRC** – The Human Rights Committee is a treaty body, with expert members, established under the International Covenant on Civil and Political Rights to monitor compliance with the Covenant.
- **ICCPR** – The International Covenant on Civil and Political Rights is a treaty that more than 150 states have ratified.
- **ICEDAW** – International Convention on the Elimination of All Forms of Discrimination Against Women. Note: in other texts, you will often see ‘CEDAW’ referring to the Convention and the monitoring body. We have chosen to use ICEDAW in this guide for the Convention and CEDAW for the monitoring body to avoid any possible confusion.
- **ICERD** – The International Convention on the Elimination of All Forms of Racial Discrimination is a treaty that more than 160 states have ratified.
- **ICESCR** – The International Covenant on Economic, Social and Cultural Rights is a treaty that more than 140 states have ratified.
- **IE** – Independent Expert.
- **IGO** – An inter-governmental organization.
- **ILO** – The International Labour Organization, a specialized agency of the UN based in Geneva, adopts labour standards from which minorities stand to benefit. It has impressive monitoring and technical assistance programmes.
- **MWC** – The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families is a treaty body, set up to monitor the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
- **NGO** – A non-governmental organization.
- **OHCHR** – The Office of the High Commissioner for Human Rights, the secretariat that supports the UN human rights bodies. It is based in Geneva. Information on all the human rights mechanisms can be found on its website.

- **SC** – The UN Security Council is the body dealing with issues relating to international peace and security.
- **SR** – Special Rapporteur or Special Representative.
- **States parties** – States that have ratified an international convention or treaty.
- **Sub-Commission** – The Sub-Commission on the Promotion and Protection of Human Rights is composed of 26 independent experts with think-tank and policy-formulating mandates. It reports to the UN Commission on Human Rights.
- **UDHR** – The Universal Declaration of Human Rights.
- **UNDM** – The United Nations Declaration on Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.
- **UNDP** – The United Nations Development Programme carries out UN development projects that may incorporate minority concerns.
- **UNESCO** – The United Nations Educational, Scientific and Cultural Organization is a specialized agency based in Paris that has adopted minority-specific standards relating to identity, culture and education.
- **UNHCR** – The United Nations High Commissioner for Refugees has headquarters in Geneva and branch offices throughout the world.
- **UNICEF** – The United Nations Children’s Fund carries out UN development programmes and projects related to child welfare and the rights of the child, including minority concerns.
- **UNITAR** – United Nations Institute for Training and Research.
- **UNRISD** – The United Nations Research Institute for Social Development is an autonomous research institution based in Geneva.
- **UNU** – The United Nations University is an autonomous research institution based in Tokyo with specialized branches and associate institutions in many parts of the world.
- **WCAR** – The World Conference Against Racism, Racial Discrimination, Xenophobia and Related Intolerance held in Durban, South Africa in 2001.
- **WGIP** – The Working Group on Indigenous Populations, which has five independent experts and was established in 1982, is a subsidiary organ of the Sub-Commission and meets annually in Geneva.
- **WGM** – The Working Group on Minorities, which has five independent experts and was established in 1995, is a subsidiary organ of the Sub-Commission and meets annually in Geneva.

1. Introduction

The aim of this guide is to demystify the human rights mechanisms and procedures of the United Nations (UN) and to demonstrate how minorities and minority non-governmental organizations (NGOs) can use these tools to promote respect for minority rights. The guide gives an overview of the mechanisms available, highlights their strengths and weaknesses as instruments for minorities to use in their work, and emphasizes NGOs' contributions.

There is no universally accepted definition of 'minorities', and the word is interpreted differently in different societies. In this guide we do not attempt to define the term 'minority'. In general, Minority Rights Group International (MRG) uses a broad definition in its work: a group of people, usually a numerical minority (although sometimes a majority) who are different from the dominant group(s) in ethnic origin, language, religion, culture and status, and who suffer prejudice, discrimination or exclusion. MRG follows the principle of self-identification whereby a particular group may choose to identify itself as it wishes, including being a minority and/or indigenous people.

This guide concentrates on the UN. It does not deal with specialized agencies such as the International Labour Organization (ILO), the United Nations Development Programme (UNDP) and the United Nations Educational, Scientific and Cultural Organization (UNESCO), or the regional human rights systems in Europe, Africa and the Americas.¹ Likewise, the guide does not aspire to be comprehensive in its coverage of UN institutions, procedures, case law, General Comments, Resolutions, etc. It is not a textbook, but points to available and feasible avenues for minorities and NGOs pursuing cases and lobbying for change, with the emphasis on institutions and monitoring mechanisms.

All the mechanisms described in the guide can and are used by indigenous peoples as well as minorities. There are additional mechanisms devoted to the concerns of indigenous peoples. These include the Working Group on Indigenous Populations, the Permanent Forum on Indigenous Issues and the Working Group on the Draft Declaration on the Rights of Indigenous Peoples. These mechanisms are not covered in this guide because it focuses specifically on mechanisms for minorities. Comprehensive information on the UN's work with indigenous peoples, can be found at: <http://www.unhchr.ch/indigenous/main.html> or by contacting the Office of the High Commissioner for Human Rights (OHCHR) at the address found in Annex 6.1.

United Nations

The UN is made up of states. Created in 1945, the UN's main principles are to ensure international peace and security, to promote social and economic development, and to encourage respect for human rights. It has a complex structure (see diagram overleaf for the structure of the UN human rights system) with the General Assembly (GA) being the highest body. The Security Council (SC) is the body dealing with issues relating to international peace and security. Although human rights are one of the fundamental principles of the UN, the bodies dealing with human rights are low in the hierarchy.

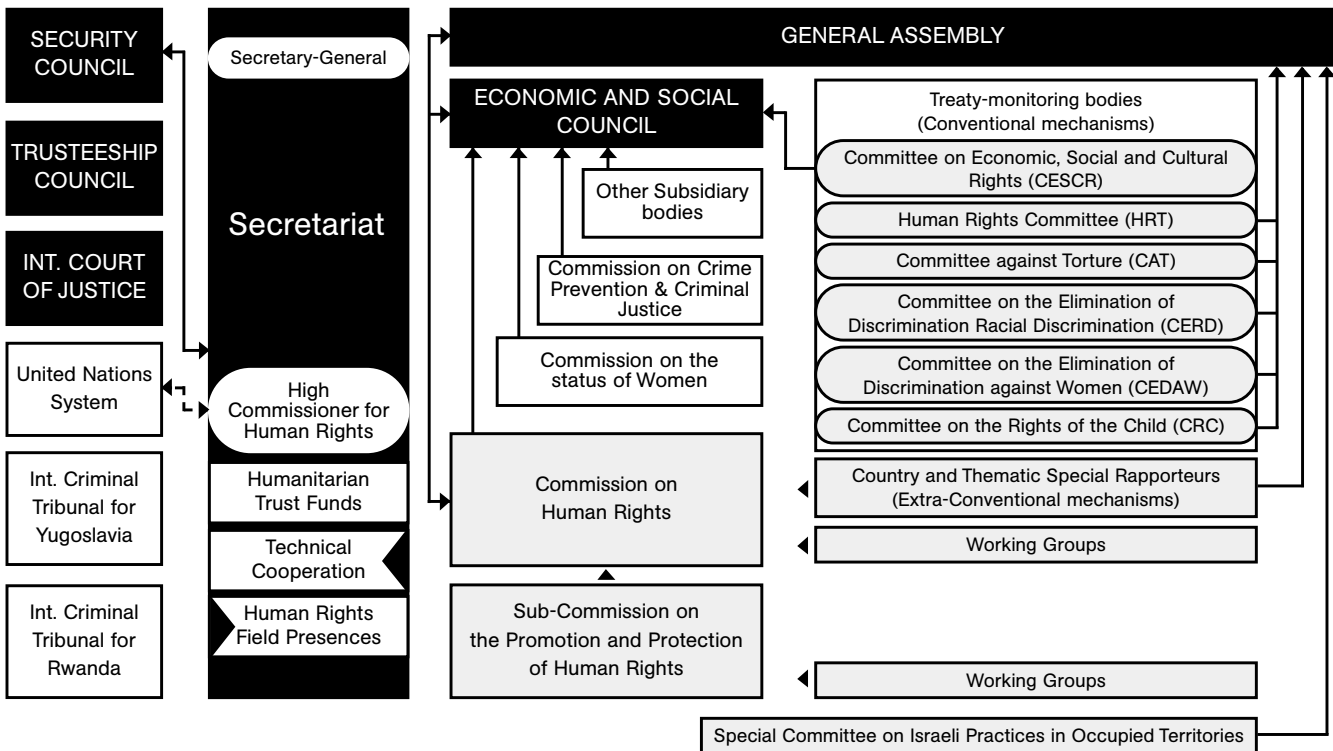
The UN secretariat is the UN civil service. The secretariat is mainly based in New York and provides support to all the various UN bodies. The Secretary-General is the most senior UN official. The Secretary-General appoints the UN High Commissioner for Human Rights, the highest human rights official in the organization. The Office of the High Commissioner for Human Rights, the secretariat to the human rights bodies, is mainly based in Geneva. This geographical distance from New York where the most powerful bodies (GA and SC) meet is often seen as one reason why human rights issues are not given sufficient attention by the UN as a whole.

The role of NGOs in the UN

NGOs play a hugely important role in the work of the UN. Their role includes:

- contributing to policy-making and legislative debates at the international, regional and national levels;
- highlighting issues concerning violations and abuses when governments and international organizations tend to be ineffective or even silent;
- bringing such issues to the attention of monitoring bodies operating under the auspices of international and regional organizations;
- providing the bulk of the information available to the various monitoring bodies and procedures, such as the special procedures of the CHR for its fact-finding and investigative activities, and the treaty-based bodies for the examination of state reports;
- submitting cases on behalf of individuals to the communications procedures of the treaty bodies and special procedures;
- identifying needs for technical assistance projects and contributing to their implementation;

The structure of the UN human rights system (2001)



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- putting political and public pressure on governments to live up to their obligations under the human rights instruments; and
- lobbying for more effective implementation of existing standards and mechanisms, and for the creation of new ones.

To attend most UN meetings, NGOs need to have consultative status with the UN Economic and Social Council (ECOSOC). This ECOSOC status has been granted to over 2,400 NGOs worldwide. It is possible to participate in a few UN meetings (such as the Working Group on Minorities) without ECOSOC status; however, the vast majority of meetings are only open to ECOSOC-accredited NGOs. You may be able to find an international NGO willing to accredit representatives of other NGOs to attend UN meetings; however, if your NGO wishes to work regularly with the UN system, it is probably worth applying for ECOSOC status. The application can be a long and complicated process but as the case of RADDHO shows (see case study), the benefits of ECOSOC accreditation make this worthwhile. For more information on eligibility criteria for application and the application process, see Annex 6.2.

The UN has a huge number of procedures that can be used. However, financial and staffing constraints will mean that NGOs need to choose the mechanisms that

will be the most effective for their particular objective. Often the most effective strategy is to select a few different mechanisms to target at the same time in order to increase the pressure on government and raise awareness of the issue among as wide a range of audiences as possible. Yet, the extent to which the UN can address issues of concern to minorities is limited. The most powerful

Case study: the impact of ECOSOC status on the work of a national NGO

Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), an NGO based in Senegal that works for the rights of refugees, internally displaced persons, and linguistic and religious minorities, obtained Special Consultative Status with ECOSOC in May 2003. The application process was complex and it took approximately two years from the initial application to ECOSOC status being granted. Despite this long process, RADDHO sees its ECOSOC status as a very positive step for the organization. Since becoming ECOSOC accredited it has seen an increase in its influence, regionally and internationally, because it feels it is now more highly respected by national, regional and international institutions. Its relations with overseas embassies based in Senegal have been reinforced. Financially, obtaining ECOSOC status has had a positive impact because it has given RADDHO greater access to some donors.

bodies tend to be the most political ones and the experts that are most likely to be sympathetic to minority concerns do not have any real power. NGOs must always remember that the UN is a club of states; therefore, you must be realistic in the achievements you strive for. The UN is only as effective as its member states allow it to be and, unfortunately, when it comes to issues of human rights – and in particular minority rights – the UN has not been as effective as it could be.

Whether it is about respect for minority rights or the maintenance of peace, the primary concern of governments tends to be the potential disruption that they expect, and fear, as a result of minorities asserting their rights. They often assume that recognizing minority rights, or granting special treatment – in particular any arrangements delegating political and economic functions to groups – will fuel secessionist claims that would threaten national unity, political independence and territorial integrity. In cases affecting what some states call ‘their own nationals’ (members of the same ethnic, linguistic or religious group living in other states), unilateral state action across international boundaries can lead to an unfortunate politicizing of minority issues and increases rather than reduces tension. Ignorance and lack of understanding, as well as doctrines of superiority and racism, constitute further stumbling blocks.

NGOs using UN procedures in their advocacy for minority rights need to recognize these governmental fears and develop strategies to overcome them. One means of doing this is for minority groups and their representatives to approach the monitoring procedures with constant reference to the international standards, and with moderation and political realities in mind. These human rights mechanisms are not forums for dealing with the right of self-determination or claims for secession. Self-determination and secession are rights that minorities do not enjoy under UN international instruments, and addressing these issues is beyond the jurisdiction and power of the monitoring bodies. For effective responses, for both protection and prevention purposes, it is important to play by the rules, even if some may consider them limited and restricted in scope.

It is important to keep in mind that respect for minority rights is in the interest of both minority groups and governments. Much depends on the political wisdom and good faith of governments and minority groups when making use of the monitoring and assistance procedures.

NGOs should also remember when using UN mechanisms that they should be seen as a tool in a broader advocacy campaign. Getting strong Concluding Observations from a treaty body or making an intervention at the Working Group on Minorities (WGM) or the Commission on Human Rights (CHR) will be unlikely to have a

big impact on the lives of minorities without follow-up work nationally. The type of follow-up that will be the most effective will depend on various criteria, including the national situation and the available resources of the NGO or NGOs undertaking the work.

Using the media at the UN in Geneva

For NGOs who visit the UN, a good way of increasing pressure on governments is to take advantage of the media opportunities that are available in Geneva.

Located within the UN Palais des Nations building are numerous journalists from international press agencies and regional and national newspapers, radio and television media. A directory of accredited journalists is available from the UN Information Service, although this can be difficult to obtain and is not made widely available to NGOs. Alternatively the press centre (Salle de presse 1 and 2) and specific offices of members of the press can be visited directly. Staff at the press centre can assist you to locate relevant journalists and information can be provided to them in printed form by using the ‘mailbox’ service outside the main press room (Salle de presse 1). Email, telephone and fax numbers for specific journalists are available from the directory of accredited journalists or by contacting the main press room. Telephone calls from within the UN to numbers located in Geneva are free.

Notices, advertising NGO events, for example, can be posted on the press notice board at the press centre, although authority to do this should be obtained in advance through staff at the centre or through the Association of Accredited Correspondents (ACANU). If you wish to organize a press briefing this can be arranged with the assistance of ACANU, or the UN Information Service, who will be able to advise on the availability of rooms and additional means to inform members of the press. The NGO Liaison Office may also be able to help.

In all your dealings with the press, it is advisable to provide them with your information in the form of a clear, well-prepared press release or notification, including details of how they can contact you if they are interested in your work or issues. For contact details of the UN Information Service and the NGO Liaison Office, see Annex 6.1.

The UN human rights system is constantly evolving. New procedures are created and new international instruments adopted, while other procedures are abandoned. NGOs working with the UN should try to keep up to date with developments in order to take advantage of any new opportunities.

The current climate at the UN means that there is potential for developments on minority issues. A high priority for the UN at the time of the 10th anniversary of the genocide in Rwanda has been ensuring that genocide cannot happen again. The UN Secretary-General, Kofi Annan,

said in January 2004: ‘We must attack the roots of violence and genocide [...] We must protect especially the rights of minorities, since they are genocide’s most frequent targets’.² In April 2004, he launched an ‘Action Plan to Prevent Genocide’ involving the whole UN system. Two of the aims of this Action Plan are to provide early and clear warning and to translate this into prompt and decisive action when genocide is about to take place. This is a welcome development. NGOs, including MRG, have long argued that there is a need for the UN to establish a mechanism that will enable early warning in situations of tension involving minorities to be translated into concrete and effective action to protect the rights of minorities and prevent conflict. Whether this new Action Plan will be sufficient or whether a dedicated mechanism on minorities and conflict prevention would be more effective remains to be seen. National NGOs have an important role in convincing sceptical governments, fearful that minority rights might mean the break-up of states, that it is in governments’ interests to support minority protection because it will reduce not create situations of conflict.

Treaty bodies and Charter bodies

The UN human rights mechanisms can be divided into two categories, those created through an international treaty and those created using the authority of the UN charter. The so-called ‘charter bodies’ are political bodies, with members representing their governments. (An exception to this is the Sub-Commission on the Promotion and Protection of Human Rights and its working groups, which are made up of independent experts; see section 4.3.) The advantage of charter bodies is that they can address issues in any state; however, it is important to remember the political nature of these bodies because this impacts on their effectiveness. Each ‘treaty body’ gets its authority from an international treaty. Some consider the treaty bodies to have more impact than charter bodies because of the legally-binding nature of international treaties; however, they can only address issues in states that are party to the treaty. Section 3 discusses the treaty bodies and section 4 addresses UN charter-based bodies.

International treaty law

A treaty is a legal agreement between states. Treaties are drafted by states; this means that each provision in a human rights treaty is subject to negotiation and alteration. When the draft is completed the GA ‘adopts’ the text. The next step is for each state to decide whether to become a party to the treaty, that is, whether the treaty will be law for that state. Treaties are only legally binding on the states that have specifically agreed to accept them.

There are different stages in the process whereby a state becomes party to a treaty: **Signature** – the state signs the treaty and shows its intention to become legally bound in future. After signature, states are obliged ‘to refrain from acts which would defeat the object and purpose of the treaty’.³ **Ratification** – the process whereby a state confirms it will be legally bound by a treaty. There is often a period of time between signature and ratification to allow the state to undertake domestic processes or change domestic legislation so that it complies with the provisions of the treaty. After a certain number of states have ratified a treaty the treaty ‘enters into force’, that is, it becomes legally effective for those states. **Accession** and **succession** are different processes whereby a state becomes legally bound by a treaty. To find out if your state is a party to the main human rights treaties, go to the OHCHR website: <http://www.unhcr.ch/pdf/report.pdf>

When a state ratifies, accedes to or succeeds to a treaty, it can modify some of the provisions by making a **reservation**. This is a statement that changes or even negates the provision in an

Article or part of an Article of a treaty. Reservations are permitted except when the treaty expressly forbids it or if the reservation is ‘incompatible with the object and purpose of the treaty’. If a state makes a reservation that another state believes to be against the object and purpose of the treaty, the second state can register an objection. However, even if other states object to a reservation, the reservation remains. Reservations to human rights treaties are a major problem, since the effects are to weaken protection for, or even legally deny some rights to, people within that state. States can also enter a **declaration** to a treaty. A declaration is often a definition or a clarification of what the state believes the treaty provision to mean. Some declarations are very similar to reservations and can also be problematic.

To check whether your state has made any reservations or declarations to the main human rights treaties, go to the OHCHR treaty body database: <http://www.unhcr.ch/tbs/doc.nsf/Statusfrset?OpenFrameSet> and select the relevant country, followed by the treaty.

The UN also issues another type of international instrument called a Declaration. Declarations apply to all states; however, unlike treaties, they are not legally binding. A Declaration is a statement of the aims or ideals of states. The most well-known UN Declaration is the Universal Declaration of Human Rights (UDHR) and the most relevant to minorities is the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM).

2. Overview of international standards

When the GA adopted the Universal Declaration of Human Rights (UDHR) in 1948, it was decided that the UN could not remain indifferent to the fate of minorities.⁴ The goal has partly been achieved because the international human rights instruments today contain many provisions from which minorities stand to benefit.

The main legally-binding UN human rights instruments are:⁵

- the International Covenant on Civil and Political Rights (ICCPR);
- the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
- the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
- the Convention on the Rights of the Child (CRC); and
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC)

Relevant non-binding UN instruments include:

- the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM); and
- the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief.

The full texts of all of these instruments are available at: <http://www.unhchr.ch/html/intlinst.htm>.

Human rights are universal; therefore, members of minorities are entitled to all the rights set out in the different instruments. In addition to these rights, there are minority-specific provisions in the CRC, ICCPR, ICERD, ICESCR and UNDM.

The equal enjoyment of all human rights and the prohibition of discrimination in that enjoyment are fundamental principles in all of the instruments. Equal enjoyment and non-discrimination clauses apply to all aspects of human rights, that is civil, cultural, economic, political and social rights. Particularly important components are

equal protection under the law and the equality of all persons before the courts and in public administration.

The grounds on which discrimination is prohibited differ from one instrument to another, but repeated references to birth, colour, gender, language, national origin, race, religion, social origin and other status clearly cover traditional minority situations.

Discrimination has been defined as:

*'Any distinction, exclusion, restriction or preference [related to these grounds] which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of [all rights and freedoms].'*⁶

History and current events show that equal enjoyment of all rights and non-discrimination in that enjoyment are insufficient guarantees for the protection of minorities. Special rights and special measures are needed to overcome widespread discrimination and to put the minority groups, as well as their members, on an equal footing with the majority population. In other words, equality under the law must also translate into equality in fact. Special treatment for disadvantaged groups is not seen as discrimination, as long as the special treatment is designed for a specific purpose and does not continue after that purpose has been achieved. Special measures are a way of trying to achieve for minorities, the situation that majorities take for granted. If special treatment is denied, the achievement of equal enjoyment of all rights by members of minorities is seriously undermined.

In the instruments, special rights and measures to benefit minorities are mainly established for the fields of culture, education, language and religion. The general rules on equal enjoyment and non-discrimination, often backed by special measures, must also be extended to all political, economic and social rights.

Most of the UN human rights instruments stipulate rights for individuals. This is also the case for many standards on minority rights, but the texts often say that persons belonging to minorities can exercise their rights in community with other members of their group. Article 27 of the ICCPR is an example of this wording, and an important provision for the specific protection of minorities. It provides that persons belonging to minorities 'shall not be denied' the right 'to enjoy their own culture,

to profess and practise their own religion, or to use their own language’.

Other relevant articles in the ICCPR include:

- Article 2 on non-discrimination;
- Article 4 on non-derogation;
- Article 14 on equality before the courts and on language interpretation in criminal justice proceedings;
- Article 20 on the limitation of the freedom of speech if it constitutes advocacy of ethnic hatred;
- Article 25 on equal suffrage and equal access to public service; and
- Article 26 on equality before the law.

Provisions in the ICESCR of particular relevance to minority rights are:

- Article 2 on non-discrimination;
- Article 7 on equality in the workplace;
- Article 13 on the right to education, including human rights education, and the contribution of education to the promotion of understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups; and
- Article 15 on cultural life and the protection of the moral and material interests resulting from artistic production.

The scope of racial discrimination prohibited under the ICERD is very wide, and covers racial, national and ethnic minorities in accordance with paragraph 1 of Article 1 of the Convention. The Convention also places an obligation on states to adopt special measures for the benefit of individuals and groups, when that is necessary, to overcome discriminatory patterns in the cultural, economic, social and other fields. In Article 4, the ICERD outlaws incitement to racial hatred and related practices, as does the ICCPR. Articles in the ICEDAW that may be relevant to minority women include:

- Article 5 on eliminating stereotypes based on the idea of the inferiority of women;
- Article 7 on women’s right to participate in public life;
- Article 10 requiring educational programmes that eliminate stereotypes of the roles of men and women;

- Article 12 on eliminating discrimination against women in accessing health care;
- Article 14 on the situation of rural women, many of whom may be members of minorities; and
- Article 16 on equality in marriage and the right to marry freely only with full and free consent.

The CRC contains civil, cultural, economic, political and social rights. It sets out the principle that all rights in the Convention be guaranteed without discrimination.

Another basic principle is that the best interests of the child should be the primary consideration. Some of the other relevant Articles are:

- Article 7 on the right to a nationality;
- Article 17 that encourages the media to produce material from diverse sources taking into account ‘the linguistic needs of the child who belongs to a minority group’;
- Article 20 on regard for a child’s ethnic, religious, cultural and linguistic background when deciding on alternative care for a child outside the family;
- Article 29 on the fundamental purpose of education including developing a child’s respect for his/her own culture and that of other cultures; and
- Article 30 which guarantees for children the rights in Article 27 of the ICCPR.

In 1992, the UN adopted the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM). This is the first and only UN human rights instrument devoted solely to minority rights. It restates many of the existing rights and adds that organizations within the UN system have a role to play in the ‘full realization of the rights and principles’ set forth in the Declaration. It also ties minority rights to the ‘development of society as a whole and within a democratic framework based on the rule of law’. As a Declaration, it is not legally binding on states; however, NGOs can use the Declaration in their advocacy with their government by highlighting that no state voted against its adoption in the General Assembly thereby demonstrating that the state in question accepts (or at least does not object to) the principles contained in the Declaration.

3. Treaty bodies

3.1 Introduction

The main human rights treaties discussed in section 2 provide for a committee to monitor state compliance with the provisions of the treaty.⁷ The committees, also known as treaty bodies, are composed of human rights experts from different states. These experts are independent and do not act as representatives of their states. However, they are nominated by their governments and elected by states party to the treaty; some are more independent-minded than others. Most of the committees meet in Geneva, although the Committee on the Elimination of Discrimination Against Women (CEDAW) meets in New York, and the Human Rights Committee (HRC) meets in Geneva and New York. Each committee meets either two or three times a year and the sessions last three to four weeks. The committees do not all function identically; however, many of their working practices are similar. For a detailed comparison of how the committees function see <http://www.bayefsky.com/getfile.php/id/9232>. Their openness to NGO contributions also varies. Each committee has a secretariat to assist its work. NGOs can contact the secretariats for more information. In the case of the CRC, you can contact the NGO Group for the Convention on the Rights of the Child, a coalition of international NGOs that works to facilitate the implementation of the Convention and to assist national NGOs to work with the committee. The Anti-Racism Information Service (ARIS) provides assistance to NGOs regarding CERD. See Annex 6.1 for contact details of all these organizations.

The main activities of the treaty bodies are:

- reviewing state reports;
- interpreting the treaty;
- considering individual complaints; and
- thematic/general discussions.

NGO involvement in all these activities is very important and strengthens the work of the committees. ECOSOC status is not required; however, it can be useful in facilitating access to the committees and enhancing the credibility of your work. The most important fact for NGOs to remember is that the work of the committees is unlikely to have a direct impact domestically without NGOs to pressure the government and publicize issues raised by or in the committees. NGOs therefore play a crucial role in

linking the international to the national and grassroots levels in order to ensure improvements in the lives of minorities. Not all committees perform all of the functions listed above. The table on the following page provides a comparison of the main treaty bodies.

3.2 State reporting

States parties to human rights treaties are obliged to submit reports to the committees. In the state reports, governments are expected to list all legislative, administrative, judicial and other measures that they have taken for the promotion and protection of the rights provided for in the treaty, including minority rights. The frequency of submission of the reports differs according to treaty requirements (between two and five years). The reports are examined by committee members in public (open) meetings. Representatives of the reporting state are generally present to make additional comments and answer questions from committee members. NGOs and the public may attend these meetings as observers; some committees have provisions for NGOs to address them at a particular time. The treaty body experts evaluate the information presented in the reports and issue a document that highlights positive developments, raises concerns and makes recommendations to the states on measures they should take in order to comply with their treaty obligations. These Concluding Observations on state reports are published at the end of the committee session and are available on the OHCHR website. They are also included in the annual reports of the treaty bodies to the General Assembly, except for the Committee on Economic, Social and Cultural Rights (CESCR), which submits its annual report to the ECOSOC.

The state report is the main document used by the committees. Ideally, NGOs would be consulted in the process of the government preparing the report; however, this does not always happen and governments often submit idealized descriptions of the human rights situation in their countries; they tend to avoid disclosing problems and shortcomings. In order to assess the accuracy of state reports, committee members can consider information from other sources. This is not without controversy. It is now generally accepted that treaty bodies will use official documents, including from other UN agencies and from UN Charter-based human rights mechanisms. (See section 4.) The use

The main treaty bodies

Human rights treaty	Name of supervisory body	Number of members	Number and venue of sessions	Number of General Comments or Recommendations adopted as at 1 April 2004	Number of general discussion days held as at 1 May 2001	Availability of individual complaints procedure	Inquiries into grave or systematic violations
International Covenant on Civil and Political Rights (ICCPR)	Human Rights Committee (HRC)	18 members	3 sessions per year: 2 in Geneva, 1 in New York	30	-	Yes under first Optional Protocol to the ICCPR	-
International Covenant on Economic, Social and Cultural Rights (ICESCR)	Committee on Economic, Social and Cultural Rights (CESCR)	18 members	2 sessions per year in Geneva	15	21	-	-
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)	Committee on the Elimination of Racial Discrimination (CERD)	18 members	2 sessions per year in Geneva	29 – In addition, 2 statements have been adopted, including one on the human rights of the Kurdish people.	1 (on the Roma)	Yes through acceptance of Article 14 of ICERD	-
Convention on the Rights of the Child (CRC)	Committee on the Rights of the Child (CRC)	10 members	3 sessions per year in Geneva	5	12	-	-
Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)	Committee on the Elimination of Discrimination Against Women (CEDAW)	23 members	2 sessions per year in New York	25	-	Yes under Optional Protocol to the ICEDAW	Yes under Optional Protocol to the ICEDAW
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT)	Committee against Torture (CAT)	10 members	2 sessions per year in Geneva	1	-	Yes through acceptance of Article 22 of the CAT	Yes through acceptance of Article 20 of the CAT
Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC)	Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (MWC)	10 members	1 session per year in Geneva (provisional)	-	-	Yes through acceptance of Article 77 of the MWC	-

SOURCE: PAMPHLET NO. 4, FROM THE UNITED NATIONS GUIDE FOR MINORITIES, OHCHR, AND UPDATED BY MRG.

of NGO information is now much more accepted; however, some committees and committee members are more open to NGO information than others.

In examining state reports, the treaty bodies undertake an important role in terms of advising states on how to improve compliance with the international standards to which they have subscribed. The treaty bodies are not tribunals, and the Concluding Observations are not legally binding and cannot be enforced. The Conventions, however, are binding and states often accept committee advice as they stand to gain credibility with the international community by engaging in dialogue with the committees, by showing good faith and by acknowledging problem areas where they have not fully succeeded in fulfilling their obligations.

NGOs and treaty monitoring⁸

NGOs have a role at all stages of the reporting process. You can find the reporting history of states on the OHCHR website: <http://www.unhchr.ch/tbs/doc.nsf/RepStatfrset?OpenFrameSet>. You can also contact the treaty body secretariats for information. Governments are often late in submitting reports and NGOs may pressure them to submit overdue reports. Sometimes NGOs are consulted during the drafting of the state report. If the government is not interested in consulting NGOs or it has not included issues of concern to your NGO in the state report, NGOs can submit written information directly to the committee in the form of a 'shadow report' (also referred to as a 'parallel report' or 'alternative report'). NGOs can submit this information to treaty bodies whether or not they have ECOSOC status. Once the state has submitted a report the committee will decide at which session it will be considered. The time between the submission and the consideration of reports depends on whether or not the committee has a backlog. State reports are available on the OHCHR website once they have been edited and translated into the UN languages. You could also contact the government office responsible for preparing the report (often the Ministry of Foreign Affairs) to request a copy.

The CERD, CESCRC and HRC have started to examine the situation in states whose reports are seriously overdue. In these cases, where there is no state report to guide the committee, NGO information is even more important and provides an 'unofficial' evaluation of the country situation.

The CERD has 'early-warning measures' that allow the committee to examine a situation with a view to preventing existing problems from escalating into conflict, and 'urgent procedures' that mean the committee can take action to prevent or limit violations. Under both these procedures, the CERD examines a state without a report.

Early-warning and urgent procedures can only be taken up when a committee member requests it.

NGOs can lobby members to have a particular issue considered, for example by writing to committee members through the secretariat. Previous situations considered under early-warning measures include the conflicts in the former Yugoslavia and the Great Lakes region of Africa. Cases examined under urgent procedures include Australia's amendment of the Native Title Act, considered discriminatory against indigenous peoples, and the situation of the Hmong in Laos.

NGOs can submit information to the committees alone or as part of a coalition of NGOs. The latter can be more effective. Committee members are more likely to read one coordinated NGO report than many reports from different NGOs; further, several NGOs speaking with one voice adds strength to the arguments being presented, and avoids duplication of work. However, it may not be possible to work as a coalition because NGOs can have diverse or conflicting views. In this case, it may be necessary to submit different reports.

It is important to organize the submission of a shadow report well in advance of the committee session. Often NGOs work very hard to produce a report but it does not get to the committee members in time. It is more important to submit some information, even if the report is not complete, than to miss the deadline. NGOs can submit information on particular aspects or Articles of the treaty, or produce a comprehensive report along the same lines as the state report. The type of report an NGO produces will depend on their areas of focus and the time and resources (both financial and human) available. Be realistic about what is possible.

All committees have one member to act as 'Country Rapporteur' for each state report. With the exception of the CEDAW and HRC the Country Rapporteur's name is publicly known and you can ask the secretariat whether it is possible for you to contact him/her directly. Some committees prepare a 'list of issues' at a working group prior to the session when the state report will be examined. This list gives an idea of the committee's concerns and NGOs should try to ensure that their shadow report is received by the committee before this time so that issues raised in the shadow report can be included in the list of issues sent to the state. The CEDAW, CESCRC, CRC and HRC permit NGOs to make a presentation to the working group.⁹ With the exception of the CEDAW and CERD, the committee secretariat prepares a 'country profile' containing relevant information for the committee members. The CAT, CESCRC and CRC secretariats will include information from NGO shadow reports in the country profiles if received early enough. NGO information received later will be given to committee members at

Shadow reports

Cover page – include the name of the country the report addresses, the committee session that it has been prepared for and the NGO(s) that prepared it.

Contents – a table of contents will ensure the committee members are clear about the issues raised in the report and can find specific information easily.

Introduction – briefly outline the NGO(s) that prepared the report, including their mandate and any information that will enhance credibility in the eyes of the committee members.

Main section – comprehensive shadow reports usually follow the structure of the state report and deal with each Article of the convention in sequence. If you decide not to follow this format you can present the issues thematically but you should ensure that you closely relate your arguments to the Articles of the Convention because this is what the committee will be looking for. The committee's General Comments can provide you with useful information on how the committee interprets the treaty Articles. Under each Article (or theme), outline the issue, raising any gaps or inconsistencies in the state report. You can also link this with previous Concluding Observations of the committee, highlighting whether or not they have been implemented. You may include questions that you would like the committee members to take up with the state; however, be careful of the tone you use, committee members will decide which questions to ask so a demanding tone may be counter-productive. Ensure that you back up your arguments using reliable sources, (see below).

Conclusions – this should briefly summarize the main issues addressed in the report and can include recommendations for the government. The committee may take up some of these recommendations to include in the Concluding Observations.

Sources – it is vital to refer to reliable sources to illustrate your arguments. Specific cases of violations that your organization is aware of can be useful as long as you provide sufficient information to enable your allegations to be crosschecked with the source. Never make allegations without firm evidence. Avoid 'reli-

able sources said ...' statements; in shadow reports you need to specify who those 'reliable sources' are. Committees (except the CESCR) do not routinely give the state information submitted to it by NGOs; however, you should be aware that they do not always respect requests for confidentiality, so shadow reports should be written in a way that will not endanger sources should the state party see the information. A variety of information can be used to support your arguments, including:

- official government documents;
- court cases;
- UN documents (for example, other treaty bodies or Special Rapporteurs);
- UN agency documents (for example, ILO, UNICEF, UNHCR, etc);
- national human rights institutions;
- regional bodies (for example, African Commission, Council of Europe, Inter-American Commission);
- academic research; and
- cases reported in newspapers (ensure the newspaper sources are reliable).

For all of these different types of information, and particularly for statistical information, you should make sure you clearly state where, when, how and by whom it was collected or produced.

Reservations – remember to check whether your government has made any reservations to the treaty.

Language – NGO shadow reports will be circulated in the language in which they are received. Most committee members have English as a working language so it is advisable to produce your report in English. However, if you can translate the report into other UN languages, this will be highly appreciated by committee members who do not use English.

Length – committee members receive huge amounts of information. A concise document setting out crucial issues will be better received than a longer, detailed report. A former committee secretary suggested shadow reports should be no more than 20 pages.

the start of the session; however, they receive a lot of information each session and may not have time to read your report if you do not send it in advance. NGO reports are not made available on the OHCHR website. The NGO Group for the CRC collects shadow reports to the CRC and they are available on the Child Rights Information Network (CRIN) website at: www.crin.org.

NGOs that do not have the time or resources to prepare a complete shadow report can still submit useful information to the committee. This could take the form of a brief overview document that addresses a selection of Articles of the Convention or a few issues of concern. The guidelines above on shadow reports are also useful for shorter NGO submissions.

Committee sessions

During examination of the state report, the state delegation will appear before the committee to present its report. Committee members will ask questions to the delegation who will usually answer the following day so that they have time to consult with the national government. Committee members are not restricted to asking questions on the list of issues, so additional NGO information received after the list of issues was drawn up or during meetings with NGOs can be incorporated into the questions.

NGO participation in the committee sessions varies. The CEDAW, CESCR and CRC have a specific time where the whole committee meets with NGOs who can raise issues relating to all the state reports being considered

Case study: Submitting a shadow report

In January 2004 the CEDAW reviewed the state report of Nepal. The Forum for Women, Law and Development (FWLD), based in Nepal, coordinated a coalition of 17 Nepali NGOs to submit a shadow report. FWLD works for the elimination of discrimination against women and has identified caste-based discrimination against Dalit women as an issue of serious concern.

An initial meeting was held, in April 2003, to discuss the schedule for production of the shadow report. Following that, advertisements in newspapers and broadcasts on the radio called for NGO participation. Letters of invitation were sent to women's and human rights organizations. The planning meeting saw the formation of committees to divide up the work and discussion of the issues to be included in the shadow report. They decided that part of the report would contain an Article-by-Article analysis and part would focus on emerging issues. Issues selected included: Dalit women, HIV/AIDS, indigenous women, and women and armed conflict. The chosen writing format was: prevalence of the problem, implementation status of the previous Concluding Observations, critical areas of concern, gaps and weaknesses, and recommendations.

When the first draft was complete, in August, the coalition undertook a national consultation. They advertised in newspapers for interested participants and invited grassroots NGOs through their networks. Over 230 participants from 34 districts of Nepal attended the September consultation. During the meeting, the draft shadow report was presented by Article and by theme, and group discussions took place on each. The national consultation received media coverage from both Nepali- and English-language newspapers in Nepal.

The text was revised, incorporating the comments received during the national consultation. Following editing, the completed shadow report was published and submitted to the CEDAW in mid-November 2003. Two coalition representatives were interviewed about the report on the radio.

Before the CEDAW session, the coalition held a strategy meeting to discuss the prioritizing of issues during the presentation to committee members. Media work around the CEDAW session was intensive. The coalition held a pre-session meeting with the press to brief them on the report and the issues to be raised. Representatives of the coalition attended the session in New York, briefed CEDAW members and answered their questions. The briefing attracted wide newspaper coverage in Nepal. Following the CEDAW examination of the government report, NGO attendees were interviewed on radio and television, and they held another press meeting to highlight issues in the Concluding Observations. The NGOs have now started a new phase of follow-up to ensure that the Concluding Observations result in concrete changes at the local level. Planned activities include translating the Concluding Observations into Nepali and other ethnic languages, and developing indicators to monitor implementation of the observations.

at that session. NGOs can arrange briefings for the CERD, CRC and HRC members outside meeting times. These briefings are often held at lunchtime, usually immediately before the committee begins consideration of the state report, and last about one hour. Not all committee members attend NGO briefings and some never attend. The briefing gives you the opportunity to explain issues, update members on developments since submitting the shadow report and to answer questions from the members. Contact the secretariat for help in organizing a briefing meeting.

Depending on the Country Rapporteur, it may be possible for NGOs to meet privately with him/her to discuss questions and make recommendations that you would like the committee to consider. It may also give you an opportunity to counter any inaccurate information provided by the government during its briefing. Note that not all committee members are open to this type of lobbying; some feel it is unnecessary because they have already received written NGO information. Other committee members may also be open to meeting privately with NGOs.

A press release is issued for each open meeting of the committees and displayed on the OHCHR website. If you are unable to attend the session you can find out about the discussions through the press releases. An official summary (called a 'summary record') of each meeting is also issued. These are usually available in the language in which they were produced (either English or French) a few weeks after the session.

Concluding Observations

Initial drafts of the Concluding Observations are usually prepared by the secretariat and modified by the Country Rapporteur. The process varies between committees but in all cases the committee as a whole adopts the final version. All committees discuss and adopt Concluding Observations in private sessions. The adopted Concluding Observations are released to the public and made available on the OHCHR website during the session, except for the CEDAW who post them on the Division for the Advancement of Women (DAW) website two to three weeks after the session. The secretariats of the CESC, CRC and HRC send Concluding Observations to the NGOs who provided information. The CERD secretariat will send them if requested.

Follow-up

Arguably the most important contribution NGOs make to the reporting process is in the follow-up to Concluding Observations. The adoption of good Concluding Observations is not an end in itself but a tool to use in national advocacy. Planning an effective follow-up process is crucial.

Examples of follow-ups:

- NGOs can inform the public through the media and/or their own publications about relevant aspects of committee proceedings. Concluding Observations may be important not only for states but also for NGOs. Organizing workshops or similar meetings may be considered to discuss actions for the implementation of the recommendations contained in the Concluding Observations. Analysis of, and commentary on, the Concluding Observations might help people to understand the implications of the committee's recommendations for the domestic situation. Translation of the Concluding Observations into national and/or other minorities' languages is equally important.
- Involvement of parliamentarians is particularly important in the follow-up process, as some of the recommendations can be implemented only if a certain law is enacted or amended, or other legislative or administrative measures are taken.
- NGOs may also approach relevant ministries/departments, local authorities, associations or trade unions in order to make them aware of the state's obligations in the Convention and the committee's recommendations to the state.
- To put pressure on a government to implement the committee's recommendations, NGOs might also draw the attention of other UN forums – other treaty bodies, the CHR or its subsidiary organs – to those recommendations that have particular relevance to their respective mandates.
- Concluding Observations can also be used within other frameworks – regional and international – for example, the European Roma Rights Centre (ERRC) refers to them wherever appropriate in its legal briefs to, for example, the European Court of Human Rights in Strasbourg.
- Concluding Observations can be used legally to challenge domestic law, especially when a state's Constitution incorporates human rights.
- The follow-up, in particular on the recommendations contained in Concluding Observations, should also be considered as the first stage in the preparation of a next shadow report.

The following sections give a brief example of Concluding Observations relating to minorities issued by some of the treaty bodies.

International Covenant on Civil and Political Rights

The HRC reviewed the report of Slovakia in July 2003. In its Concluding Observations,¹⁰ the committee specifically mentioned the Roma minority in six out of its 13

principal subjects of concern. The committee expressed its concern at: 'persistent allegations of police harassment and ill-treatment during police investigations, particularly of the Roma minority' and at 'reports that Roma are often victims of racist attacks, without receiving adequate protection from law enforcement officers'. They recommended the government take action to eradicate these problems and to protect Roma, as well as investigating and prosecuting perpetrators. Another committee concern is of reports of the forced sterilization of Roma women and that the state response appeared to implicitly admit to breaches of the principle of informed consent. Rights to education, health and social services are not provided for in the ICCPR; however, Article 26 provides for non-discrimination in all areas of law. The HRC noted measures taken to improve the health and employment of Roma and expressed its concern at the:

'grossly disproportionate number of Roma children assigned to special schools designed for mentally disabled children, which causes a discriminatory effect, in contravention of article 26 of the Covenant'.

They recommended Slovakia take:

'immediate and decisive steps to eradicate the segregation of Roma children in its educational system by ensuring that differentiation within education is aimed at securing attendance in non-segregated schools and classes. Where needed, the State party should also provide special training to Roma children to secure, through positive measures, their access to education without discrimination'.

As follow-up, the HRC requested that Slovakia provide information on the implementation of these recommendations within one year.

International Convention on the Elimination of All Forms of Racial Discrimination

In March 2004, the CERD examined the state report of Brazil. It welcomed a number of positive measures, including: a new civil code that eliminates discriminatory restrictions on indigenous peoples' civil rights, and the modification of a law on discrimination on the basis of race or colour to include discrimination based on ethnicity, religion and nationality. The CERD highlighted a wide range of concerns, particularly relating to the position of black, *mestizo*, indigenous and Roma communities. One issue was *de facto* racial segregation and the committee reminded Brazil that: 'racial segregation may also arise without any initiative or direct involvement by the public authorities' and encouraged:

'the State party to continue monitoring all trends which may give rise to racial or ethnic segregation and to work for the eradication of the resulting negative consequences'.¹¹

Another concern was that: 'despite the widespread occurrence of offences of discrimination, the relevant domestic legal provisions against racist crimes are reportedly rarely applied'. The committee recommended training programmes for those administering justice, and requested statistics on prosecutions and penalties for racist crimes. The committee requested additional information from Brazil in areas where the state report lacked information, including discrimination against Roma concerning birth registration and access to schools, and cultural rights of minorities, including the availability of provisions for minorities and ethnic groups to receive education in their language.

International Convention on the Elimination of All Forms of Racial Discrimination Against Women

The CEDAW's Concluding Observations address discrimination faced by all women and are therefore applicable to women from minority and majority communities. Increasingly, the committee is addressing issues of multiple discrimination against minority women. The increased involvement of minority NGOs in the work of the CEDAW may have a positive impact on this trend and further encourage the committee to pay attention to this important issue. In January 2004, the CEDAW examined the state reports of Ethiopia and Nepal. In its Concluding Observations¹² on Ethiopia, however, there is no mention of different ethnic communities and no acknowledgement that minority women may face different or additional problems due to their minority status. The committee mentions rural and urban differences, and notes that the state failed to provide information on the situation of older women or disabled women; and appears not to recognize the specific situation and problems facing women from Ethiopia's many different minority and/or indigenous groups. In contrast, the Concluding Observations on Nepal contain specific concerns and recommendations relating to women from ethnic groups and disadvantaged castes. The committee expresses concern that there are fewer educational opportunities for 'women of different castes and ethnic groups' and recommends more intensive action to ensure equality in education. Badi (a group of Dalit women engaged in forced prostitution) is also addressed by the committee in a section related to traditional cultural practices. The extent to which the inclusion of minority-specific recommendations is due to the work of NGOs is difficult to measure; however, the more that NGOs highlight issues

of multiple discrimination, the more likely the committee is to routinely pay increased attention to this area.

International Covenant on Economic, Social and Cultural Rights

The CESCR examined the state report of the Russian Federation in November 2003. A number of concerns and recommendations in the Concluding Observations¹³ address a variety of issues affecting different minorities. The committee expresses its deep concern over the poor living conditions in Chechnya and 'while acknowledging the difficulties caused by the ongoing military operation', urges the state to 'allocate sufficient funds to reinstate basic services'. In addressing the problem of a lack of identity documents leading to limitations on access to work and services, such as health and education, the committee highlighted its concern that some groups, including Roma, are particularly affected. They expressed concern over the 'precarious situation of indigenous communities' affecting their right to self-determination, noting that a law to protect the land rights of indigenous communities in the north, Siberia and far-east of the state has not been implemented. Recommendations included: the effective implementation of this law and measures to ensure indigenous peoples are not deprived of their means of subsistence, along with taking effective measures to improve their health. The committee was also concerned about reports that some ethnic groups had been denied the possibility of exchanging old Soviet passports for Russian Federation passports. The effect of this was that these groups would be left unregistered when Soviet passports expired at the end of 2003. The committee called for measures to ensure that local authorities legalized 'the residence of Mesketians and members of other ethnic groups'.

3.3 General Comments

International instruments contain the human rights and minority rights standards, but the official treaty monitoring bodies provide important contributions to the interpretation and application of the standards. Their deliberations are important and should be read together with the standards, because precedents carry considerable weight in international organizations just as they do in national legal systems.

Treaty monitoring bodies' General Comments (sometimes called General Recommendations) provide guidance to states when reporting to the committees and serve to interpret or elaborate on the various treaty provisions, and to summarize the practice of the treaty bodies. They also clarify terminology and definitions relating to the various rights and freedoms. However, it is important to note that General Comments or Recommendations are not legally

binding on states. They act as guidelines. It is possible for NGOs to lobby the treaty bodies to issue a General Comment/Recommendation on a particular issue, or to lobby committee members in order to influence the contents when new ones are being drafted or old ones amended. The CEDAW has adopted a procedure for drafting that includes dialogue with NGOs and the CESCR is also willing to receive proposals from specialized NGOs during drafting; however, for other committees, the extent to which NGO involvement is possible largely depends on individual committee members. Where General Comments call for states to provide certain information in their reports to the committee, NGOs have an important role. NGOs can submit the relevant information, which is of particular value, especially if the state report is lacking. See section 3.2 for more information on NGO shadow reports.

Some of the relevant General Comments/Recommendations by the treaty monitoring bodies are summarized below.¹⁴ Note that these are not the only comments that are pertinent to minorities, and in many cases the summary covers only a fraction of the issues and recommendations in the General Comment. NGOs considering submitting information to the committees should refer to the full text and check those comments not mentioned here for possible relevance.

General Comments of the Human Rights Committee

Minorities

The HRC has adopted General Comment no. 23 on minority rights as set forth in Article 27 of the ICCPR (also of relevance to indigenous peoples).¹⁵ These are additional to all of the other rights set out in the Covenant to which members of minorities are entitled as a matter of course. The rights in Article 27 are extended to all individuals belonging to ethnic, religious and linguistic minorities within the jurisdiction of the state; they cannot be limited to citizens of that state. The existence of a minority is to be established on the basis of objective criteria and does not depend on state recognition of that minority.

Although Article 27 is formulated in negative terms, that is 'minorities shall not be denied the right', a state party is nevertheless obliged to ensure that the existence and the exercise of the rights specified in Article 27 are protected against their denial or violation. This means that the negative wording has been reversed through the interpretative practice of the HRC:¹⁶ a state is obliged to undertake special measures or positive action to redress inequalities between members of minority groups and the majority. Special measures are required for the protection against the denial or violations of the rights provided for in the Article and against acts committed not only by

state authorities but, in line with Article 20 of the Covenant, also the acts of other individuals within the state, such as members of racist organizations.

Article 27 recognizes and establishes rights of individuals belonging to minorities; that is, not the group as such, but individuals are to enjoy the rights 'in community with other members of their group'. The realization of the rights, therefore, relates to the ability of a group to maintain its identity, such as its culture, language and religion. Special measures may be required to protect this identity. Enjoyment of the right to culture, especially for indigenous communities constituting a minority, may be associated with the ownership and use of land and resources, and activities such as fishing and hunting, if these activities are integral to the preservation and development of the group's way of life and culture.

The HRC requests states to include in their reports information on any measures adopted for the full protection of the rights laid down in Article 27. The Committee specifically asks for information on measures adopted towards ensuring: 'the survival and continued development of the cultural, religious and social identities of the minorities concerned'.

It is important to remember that, according to the HRC, the enjoyment of the rights set out in Article 27 does not prejudice the sovereignty and territorial integrity of states. This understanding is repeated in many international instruments.

Self-determination

The General Comment no. 12 by the HRC on the right of self-determination in Article 1 of the ICCPR, gives limited guidance on questions related to minorities and indigenous peoples, except to say that this is a right to which peoples and not minorities are entitled. The term 'peoples' in Article 1 has been interpreted by the HRC to mean the entire population of a state or of an entity entitled to statehood under international law. The term 'peoples' therefore cannot be applied to a minority group living within a state. Ethnic, religious or linguistic minorities do not have the right to break away or secede from a state by reference to Article 1, unless they can be classified as falling under the UN practice of decolonization, or unless the majority and minority agree to separate. Self-determination claims may also be justified in international law if groups are subject to systematic discrimination and exclusion from government, or if they live on territory that has been occupied by force since the entry into force of the UN Charter in 1945.¹⁷

In the General Comment on Article 1, the HRC requests state parties to include in their periodic reports details on measures undertaken to fulfil the right of: 'all peoples to freely determine their political status and freely

pursue their economic, social and cultural development'. The HRC asks states to: 'describe the constitutional and political processes which in practice allow the exercise of this right'. This emphasis on democratic governance may be important for minorities living in areas where local self-administration or autonomy could be legitimately claimed as a special measure for achieving equal enjoyment in the fields of cultural, economic and political rights, for example.

Non-discrimination

Equal enjoyment and non-discrimination are set out in various articles of the ICCPR, most notably in Articles 2, 14, 20 and 26. In General Comment no. 18 on non-discrimination, the HRC has defined the term 'discrimination' as follows:

*'Discrimination as used in the Covenant should be understood to imply any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.'*¹⁸

It is important to note that equal enjoyment of rights and freedoms does not necessarily mean identical treatment in all cases and in every instance. Differentiation is required or allowed as a means of creating equal opportunities for a disadvantaged group when compared with the rights enjoyed by the majority of the population. Such special measures, also referred to as affirmative action or special treatment, are not to be regarded as privileges if they have a limited duration and serve the purpose of redressing conditions of inequality.¹⁹

The prohibition of discrimination applies to all individuals living in a state. According to the HRC, the scope of the discrimination clause in Article 26 not only embraces the rights protected in this particular Covenant, but all rights which the state confers by law on all individuals living within its jurisdiction. Article 26 thus prohibits discrimination in any field, in law or in fact, in the civil, cultural, economic, political²⁰ and social sectors, which is subject to regulation and protection by state authorities. When a state enacts legislation, it must be in accordance with Article 26; that is, the content of the law must not discriminate in any way between persons who come within the jurisdiction of that state.

Freedom of religion

According to the HRC, the scope of Article 18 on the freedom of religion is very wide. It protects believers as

well as non-believers. In General Comment no. 22, the HRC emphasized that the Article is not limited to so-called traditional religions, and the committee is concerned with:

*'any tendency to discriminate against any religion or belief for any reason, including the fact that they are newly established or represent religious minorities that may be the subject of hostilities on the part of a predominant religious community.'*²¹

Article 18, paragraph 3, of the ICCPR permits limitations on the right to freedom to exercise one's religion or belief if such limitations are: 'prescribed by law and are necessary to protect public safety, order, health or morals or the fundamental rights and freedoms of others'. The HRC states clearly that this provision must be interpreted strictly. Any limitation must be in accordance with the rights guaranteed in the Covenant, such as equal opportunities and non-discrimination. Furthermore, limitations must be applied only for specific, legitimate purposes, and they must be proportional to the need on which they are based. The HRC acknowledges that there are difficulties related to the definition of morals, which will vary with different social, religious and philosophical traditions, but the concept of morals must not be based exclusively on a single tradition.

The HRC lays stress on the prohibition of discrimination against religious minorities, including non-believers, whether in the form of economic or political privileges for followers of the majority religion, the imposition of restrictions on the practice of non-dominant faiths, or otherwise. The HRC urges states to include in their reports to the committee information on measures undertaken to protect all religions or beliefs, and especially on the protection of religious minorities. The HRC also wants states to submit: 'information relating to practices considered by their laws and jurisprudence to be punishable as blasphemous'.

Prohibition of incitement to racial hatred

Article 20, paragraph 2, of the ICCPR states that: 'any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law'. According to General Comment no. 11 of the HRC, this prohibition is fully compatible with the right to freedom of expression.²² The committee stresses the need for effective implementation of this Article and urges states to adopt laws clearly proclaiming that propaganda and advocacy of national, racial or religious hatred are: 'contrary to public policy'. States parties to the Covenant must also provide effective sanctions against perpetrators of such acts.

General Recommendations of the Committee on the Elimination of Racial Discrimination

Non-discrimination

General Recommendation no. XIV on non-discrimination as set out in Article 1 of the ICERD illustrates the scope and understanding of the meaning of discrimination.²³ Special measures resulting in differential treatment will not constitute discrimination if they are temporary and only serve the purpose of placing a disadvantaged group and its members on an equal footing with the majority population as far as the enjoyment of all human rights is concerned.

Non-citizens

The CERD has adopted General Recommendation no. XI on non-citizens as referred to in Article 1, paragraph 2, of the ICERD, which grants a state limited rights to differentiate between citizens and non-citizens.²⁴ Such differentiation is not regarded as discriminatory. The committee declares, however, that a state is not allowed to discriminate against a particular nationality of non-citizens living within the state and under no circumstances is to deny non-citizens the rights and freedoms provided for in other international human rights instruments. In March 2004, the CERD held a thematic discussion on non-citizens and a new General Comment is in the process of being adopted.

Indigenous peoples

General Recommendation no. XXIII affirms that the ICERD is applicable to indigenous peoples. It calls on states to recognize and respect indigenous culture as an enrichment of the state's cultural identity, and to ensure indigenous peoples are free from any discrimination. The CERD especially calls on states to recognize and protect the rights of indigenous peoples to control, develop and use their lands and resources.

Prohibition of incitement to racial hatred

In General Recommendation no. XV on Article 4 of the ICERD, the CERD has demanded strengthened national implementation.²⁵ Having received information on instances of organized violence based on ethnic origin and the political exploitation of ethnic difference, the committee stressed that the implementation of Article 4 is now of increased importance. The mandatory character of Article 4 obliges states to adopt appropriate legislation and to secure effective enforcement. According to the CERD, the prohibition on disseminating racist propaganda is compatible with the right to freedom of expression. In international law, that freedom carries certain limitations and

responsibilities, including respect for the rights and reputations of others.

Article 4 also proscribes organizations that promote racist propaganda and ideas, and incite racial discrimination. The CERD stresses that states must monitor organizations or organized activities that are based on racist ideas, and undertake appropriate measures to declare their activities illegal.

Gender and racial discrimination

General Recommendation no. XXV on gender-related dimensions of racial discrimination addresses the issue of the: 'circumstances in which racial discrimination only or primarily affects women, or affects women in a different way, or to a different degree than men'.²⁶ The CERD recognizes that women may face certain forms of racial discrimination specifically because of their gender, for example, sexual violence against women from particular ethnic groups during armed conflict. The committee also noted that women may face gender-related impediments, such as bias in the legal system that hinders access to justice, when they seek remedies for racial discrimination. In view of this, the CERD stated its commitment to further integrate a gender perspective and requested states parties to provide disaggregated data and information in their reports on factors affecting women's enjoyment of the rights in the Convention. NGOs can assist in this by ensuring that their shadow reports contain disaggregated data and information on issues of double discrimination.

Roma

General Recommendation no. XXVII on Roma was issued following a thematic discussion on discrimination against Roma.²⁷ In it, the CERD sets out a number of general measures for states to adopt to ensure the protection of Roma against racial discrimination. It also elaborates specific measures for protection against racial violence and in the areas of education, living conditions, media and participation in public life. States parties are requested by the committee to include in their reports: 'data on Roma communities within their jurisdiction' including information on their participation in public life, and their economic, social and cultural situation, with a gender equality perspective.

Descent

The CERD held a thematic session on descent-based discrimination (see case study in section 3.5) and subsequently issued General Recommendation no. XXIX.²⁸ It reaffirms that: 'discrimination based on "descent" includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status'. The committee recommends

that states adopt measures to include the outlawing of all forms of discrimination based on descent; and recommends the introduction of special measures in favour of descent-based groups, in order to ensure their enjoyment of all human rights. It also stresses the need to protect women from multiple discrimination, and includes the request that states provide disaggregated data to the committee. The recommendation lays out a large number of specific measures to be taken in the areas of the administration of justice, civil, political, economic and social rights, education, eradication of segregation and the media.

General Comments of the Committee on Economic, Social and Cultural Rights

Protection from eviction

General Comment no. 7 on forced evictions may have particular relevance to minorities and indigenous peoples. The CESCR defines forced evictions as:

*‘the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without provision of, and access to, appropriate forms of legal or other protection’.*²⁹

It notes that many forced evictions are associated with conflicts, including communal or ethnic violence, while some occur in the name of development and may be associated with conflict over land rights. It states that minorities and indigenous peoples, among other vulnerable groups, suffer disproportionately from forced evictions, and says that women in these groups are especially vulnerable. The CESCR reminded states that the non-discrimination provisions of the Covenant impose additional obligations on governments to ensure that when evictions occur, no form of discrimination is involved. The committee emphasized that the nature of forced evictions means that: ‘progressive achievement based on the availability of resources will rarely be relevant’; states must refrain from forced evictions and must punish its agents or third parties who carry out forced evictions. States cannot cite a lack of resources as a reason for non-fulfilment.

Education

General Comment no. 13 on the right to education highlights that one of the aims of education is to promote understanding among nations, ethnic, racial and religious groups.³⁰ It stresses that education must be accessible to all, in law and fact, without discrimination on any grounds. The CESCR reiterates that temporary

special measures in favour of disadvantaged groups do not qualify as discrimination as long as they do not lead to the maintenance of unequal or separate standards, and are not continued after the objectives are met. The principle of non-discrimination: ‘extends to all persons of school age residing in the territory of a State party, including non-nationals, and irrespective of their legal status’. The committee notes that the progressive realization of the right to education means that states have a continuing obligation to move towards full realization; regressive measures are presumed to be in violation, unless the state can prove they are fully justified. Part of the ‘minimum core obligation’³¹ on states is to ensure access on a non-discriminatory basis; the committee also highlighted that the introduction of, or failure to repeal, discriminatory legislation, or the use of curricula inconsistent with the education objectives, would constitute a violation of the Covenant.

Health

The importance of non-discrimination in access was reiterated by the CESCR in relation to health in General Comment no. 14.³² Health facilities, goods and services must be available to all, including the most marginalized groups in society, without discrimination. As with education, the committee notes in both General Comments that there is a presumption that regressive measures are not permitted. General Comment no. 14 states that health facilities, goods and services must be culturally appropriate to minorities and indigenous peoples, and gender sensitive. The CESCR highlights that health services should take into account the traditional healing practices and medicines of indigenous peoples, and that indigenous peoples should design, deliver and control these services. States should also protect vital medicinal plants. The committee acknowledges the collective aspect of health and considers that: ‘development-related activities that lead to the displacement of indigenous peoples against their will from their traditional territories [...] has a deleterious effect on their health’. As with other rights in the Covenant, the committee has emphasized the obligation of international assistance and cooperation in realizing the right to health in other countries, including states parties who are members of international financial institutions such as the World Bank. States have an obligation to ensure that their actions as members of these institutions take due account of the right to health.

Water

General Comment no. 15, on water, again stresses non-discrimination in access as one of the minimum core obligations to be implemented immediately.³³ States should pay particular attention to individuals and groups

who traditionally experience difficulties in exercising the right to water, including: minority groups, indigenous peoples, women, refugees, internally displaced persons and migrant workers. States should also take steps to ensure that indigenous peoples' access to water on their ancestral lands is protected, and that indigenous peoples can control their access. Access to adequate water should also be available to nomadic and traveller communities at traditional and designated sites. Retrogressive measures are presumed to be prohibited by the Covenant. As with other rights, when developing states are concluding agreements that adversely affect the rights of people within their jurisdiction, the government may argue that they cannot accept the agreement because there is an international standard (or minimum threshold) below which individuals and groups may not fall.

General Recommendations of the Committee on the Elimination of Discrimination Against Women

Health

In General Recommendation no. 24, the CEDAW noted that state reports should demonstrate that health legislation and policies are based on:

'scientific and ethical research and assessment of the health status and needs of women in that country and take into account any ethnic, regional or community variations or practices based on religion, tradition or culture'.

Reports should also address diseases and health hazards that: 'affect women or certain groups of women differently to men'.

Special measures

General Recommendation no. 25 includes the recognition that women may suffer, in addition to gender discrimination: 'from multiple forms of discrimination based on additional grounds such as race, ethnic or religious identity, disability, age, class, caste or other factors' that may affect them in different ways to men. It suggests that states may need to take temporary special measures to eliminate this multiple discrimination. It stresses that specific measures taken on a temporary basis to bring about equality do not constitute discrimination, and recommends that states clearly differentiate between temporary special measures and general social policies designed to improve the situation of women.

General Comments of the Committee on the Rights of the Child

Education

General Comment no. 1 on the aims of education acknowledges that, at first sight, some of the ideas in Article 29 of the CRC may appear contradictory:

'efforts to promote understanding, tolerance and friendship among all peoples, to which paragraph (1) (d) refers, might not always be automatically compatible with policies designed, in accordance with paragraph (1) (c), to develop respect for the child's own cultural identity, language and values'.

It stresses that the importance of the provision is the need for a balanced approach that reconciles diverse values through dialogue and respect, and highlights the important role children can play in bridging differences between groups. The committee highlights that education is crucial in eliminating racism since racism thrives on ignorance and unfounded fears. Education should teach about historical occurrences of racism and current forms of racism, including focusing on the child's own community in order to demonstrate that racism is not only practised by 'others'.

Adolescent health

The CRC in General Comment no. 4 urged states to collect data to allow study of the specific health situation of adolescents, including the situation of specific groups such as 'ethnic and/or indigenous minorities, migrant or refugee adolescents'. The committee called on states to implement legislation and policies to promote the health and development of adolescents, including:

'giving, while respecting the values and norms of ethnic and other minorities, special attention, guidance and support to adolescents and parents (or legal guardians), whose traditions and norms may differ from the society where they live'.

3.4 Complaints mechanisms

Five treaties include provisions for individuals to bring allegations of violations of the treaty to the attention of the monitoring committee. These are known as communications. Individuals, or NGOs acting on their behalf, can only bring a complaint if the state has specifically accepted the jurisdiction of the committee to consider individual complaints. In the case of the CEDAW and ICCPR, the state must have ratified the appropriate Optional Protocol, and in the case of the CAT, CERD and MWC, the state must have made the required Declaration.

In November 2003, 104 of the 151 states parties to the ICCPR had ratified the Optional Protocol, only 45 of the 169 states parties to the ICERD had recognized the competence of the CERD under Article 14, and 54 out of 133 states parties to the CAT had recognized the competence of the CAT under Article 22. The newest individual complaints mechanism to come into force, the Optional Protocol to the CEDAW, had, by April 2004, received 60 ratifications out of 177 states party to the CEDAW. There is a provision for individual complaints to the MWC; however, no state has yet recognized the competence of the committee under Article 77.

Under Article 14 of the ICERD both individuals and groups can file communications about alleged violations, whereas under the Optional Protocol to the ICCPR and Article 22 of the CAT, only individuals can submit complaints. However, the HRC will hear cases submitted by leaders or chiefs who are speaking on behalf of a group. The Optional Protocol to the CEDAW allows for communications from individuals and groups of individuals. NGOs may submit communications on behalf of victims with the victim's consent. The Optional Protocol to the CEDAW also provides for committee members to initiate an inquiry if a committee member receives reliable information about grave or systematic violations. This confidential investigation may include a visit to the state (with the consent of the state).

All individual complaint procedures are quasi-judicial in nature; as with legal cases, they require thorough preparation of the complaints as well as detailed presentation. All communications are considered by the committees in private, based on written submissions from the complainant and the government. It is only at the conclusion of a case that details are released publicly. If a communication contains particularly sensitive matters, the complainant may request that the committee protect their identity when the final result of the case is released. From the initial submission of a case, it may take several years before a final decision is produced. Specific guidelines for submitting communications to the different committees can be found at: <http://www.unhchr.ch/html/menu2/8/question.htm> but all communications must meet the following criteria:

- the communication must be submitted by a person (or a group of persons in the case of CERD) alleging to be victim of a violation;
- the author (applicant) must not be anonymous;
- the alleged victim must live within the jurisdiction of a state that has ratified the respective treaty, recognized the competence of the treaty body to deal with complaints and not made any reservations that precludes the committee from considering that particular case; (see section 1 for more information about reservations);

- the communication must not be incompatible with any provisions of the respective treaty or the UN Charter;
- the same case must not be under consideration in another international procedure; and
- all available and effective domestic remedies must have been exhausted.³⁴

Communications should be sent to the secretariat of the respective committee at the OHCHR (see Annex 6.1 for contact details). The communication should normally be sent within six months of the exhaustion of domestic remedies, although not all committees require this. The committee first decides, based on the above criteria, if the communication is admissible, that is, if they have jurisdiction to consider it. (See Annex 6.3 for a model communication form.)

The committee may make an interim protection order. This is a request that the state undertake a particular action or refrain from a particular action until the conclusion of the case. For example, the HRC has used this provision to make urgent requests to states not to carry out an execution or deportation while the case is under consideration by the committee. Interim measures are also possible where economic activity threatens the way of life of a minority community. Many states comply with the request but others do not. The HRC has stated that failure to respect an interim protection order is a 'grave breach' of a state's obligations under the Optional Protocol, and that it 'undermines the protection of covenant rights', especially if the measures taken by the state are irreversible.³⁵ However strong the HRC (or other committees') condemnation of the failures to comply with interim protection orders, this cannot guarantee protection for all complainants.

Communications should include all the relevant facts and a reference to the treaty provisions that have allegedly been violated. Documents that substantiate the allegations, copies of decisions of domestic courts and relevant national legislation should also be included. The committee will transmit the complaint to the government concerned with a request for its submissions on admissibility and/or merits (substance) of the case. Subsequently, the committee may request that the alleged victim and the government submit additional information and/or give observations on comments received from the other party. The author of the communication will always be informed about the content of replies and comments made by the government.

When the committee makes a decision on the case, it will transmit its 'views' or 'opinion' to the applicant and the state at the same time. Where the committee finds a violation, the views will request the state to provide

redress for the victim. Often this will be in the form of asking the state to change the law so that a similar violation cannot occur in future, and to provide limited compensation to the victim. Committees request states to submit information to them, within a certain period, informing the committee of the action taken. Decisions of the committees are final; there is no appeal process. The texts of decisions on the merits of a case are made available on the OHCHR website and are published in the committee's annual report to the General Assembly. Committees will also report to the GA on state action or inaction following a decision.

The committees are not courts, so their views are not legally binding on states. However, even though 'views' or 'opinions' are not judgments in a formal sense, their political and moral value is considerable; ratifying and accepting states wishing to maintain a good reputation globally are likely to comply with the findings. NGO involvement does not end with the decision of the committee. NGOs play an important role in ensuring that a state complies with the decision by publicizing the case domestically and pressuring the government if it is reluctant to implement the decision.

Contrasting state reactions to CERD decisions and recommendations

In its decision in the case *L.K. v. The Netherlands* (for details see below), the CERD recommended that the state party review its policy and procedure concerning acts of racial violence, and that it provide the applicant with relief proportionate to the moral damage suffered. The Netherlands in its 13th periodic report to the CERD provided extensive information on new, stricter anti-discrimination guidelines for the police and public prosecutions department, adding that in issuing these new guidelines, it had also complied with the recommendations of the committee in the *L.K.* case. They also stated that they had provided reasonable compensation to the applicant following consultations with counsel.

In the case of *Hagan v. Australia* (details below), the committee recommended that the state party remove the offending term from the sign and inform the committee of the action taken. The government of Australia transmitted its reply to the CERD stating that it did not propose to take measures to remove the offending term. The committee wrote to the government expressing its regret over this and hoped that Australia: 'will reconsider its position in the larger context of dealing with factors contributing to racial discrimination'. The committee are likely to revisit this issue when they consider Australia's next periodic report.

The following selected cases demonstrate some interpretations by the CERD and HRC of provisions in the Con-

ventions that have a particular impact on minorities. Depending on your situation, the CAT jurisprudence may be useful, see: <http://www.unhchr.ch/html/menu2/8/jurispr.htm> for details. The CEDAW has yet to complete consideration of its first cases.

Selected cases of the Human Rights Committee

Relatively few cases concerning minority rights have been dealt with by the HRC. Most cases dealing with minority questions have been submitted by indigenous peoples using the minority rights provision of Article 27. Case law, however, as demonstrated by the examples below, is important and of interest to both minorities and indigenous peoples because it shows the committee's broad and expansive interpretation of Article 27 of the ICCPR. The full texts of all HRC opinions can be found on the OHCHR website.

Sandra Lovelace v. Canada (communication no. 24/1977) concerned an indigenous woman who had been brought up on an Indian reservation. Following her marriage to a non-Indian she left the reservation. Later she divorced and wanted to return to her native community and the reservation. According to Canadian national law, Ms Lovelace lost her status as an Indian on marrying a non-Indian and she consequently lost her right to reside on the reservation. The HRC found that, being a native Indian and being brought up with her community, Ms Lovelace was, regardless of her marriage, to be regarded as a person belonging to a minority falling under the protection of Article 27 of the ICCPR. Article 27 does not explicitly guarantee the right to residence, but the right to residence was considered essential for access to culture and language 'in community with other members of the group'. The rights to culture and language are well protected under Article 27, and they constitute important components of the right to identity. The committee's view was that restrictions on the right to residence on a reserve must have a 'reasonable and objective justification'. They found that denying Ms Lovelace the right to live on the reservation was not 'reasonable, or necessary to preserve the identity of the tribe'. According to the HRC, denying the right of residency amounted to a violation of her right to identity. Following the HRC decision in this case, Canada amended the Indian Act and the discriminatory provisions were removed.

In the case *Chief Bernard Ominayak and the Lubicon Band v. Canada* (communication no. 167/1984) the applicant was the chief of an Indian band (or people) who lived to a large extent by fishing and hunting. Due to large-scale expropriation of land and degradation of the environment, he claimed that members of the band were denied their right to self-determination and to dispose

freely of their natural resources under Article 1 of the ICCPR. The HRC decided, however, that the applicant as an individual could not claim to be the victim of a violation of the right to self-determination because the right to self-determination is a right only for peoples. The procedure under the Optional Protocol provides exclusively for individuals to claim that their rights have been violated. Nevertheless, the HRC declared the case admissible based on Article 27, as the rights protected therein include the right of persons, in community with others, to engage in economic and social activities which are part of the culture of the community to which they belong. The HRC recognized that economic activities, including fishing and hunting, were part of the way of life and the cultural tradition of the Lubicon band. The HRC stated that the Lubicon band's right to culture was threatened and that the rights of the band members under Article 27 had been violated by expropriation and pollution.

The applicant of the complaint in another case, *Ivan Kitok v. Sweden* (communication no. 197/1985), was a member of an indigenous people, the Sami of Sweden, who make their living by reindeer breeding. With the aim of protecting the environment and preserving the Sami minority, the Swedish parliament had restricted the number of reindeer breeders; if a member of the Sami community lost 'membership' in a Sami village, he or she accordingly lost their reindeer breeding rights under national law. Ivan Kitok lost his official membership in a Sami village due to his other economic activities outside the village. He claimed to be a victim of violations of both his right to self-determination and the right under Article 27 to enjoy his culture in community with others. As in the Lubicon band case, the HRC found that Mr Kitok had no right under this complaints procedure as an individual to claim to be victim of a violation of the right to self-determination. While finding Article 27 applicable to the case, the HRC found no violation of the Article. The committee decided that the government restriction on the rights of an individual member of the minority was justified and that the rights of the minority as a group outweighed those of the individual member. This is in contrast to the findings of the Lovelace case. The case is also important for minority rights because it clarifies the scope of Article 27 by stating that traditional economic activities and ways of living – in this case reindeer breeding – may fall under its protection when the conduct in question is closely related to the culture of a group and the activity is an essential element of its cultural traditions.

The case of the *Mikmaq Tribal Society v. Canada* (communication no. 205/1986) concerned an indigenous people. The Canadian government had not invited their representatives to constitutional conferences on

indigenous matters, and the applicant therefore claimed a violation of the right to take an active part in the conduct of public affairs provided for in Article 25 of the ICCPR. Even though this right should be enjoyed by every citizen without discrimination of any kind, the HRC found no violation of Article 25 because participation and representation at these conferences had not been subject to unreasonable restrictions. This narrow interpretation of Article 25 and possible disregard of the non-discrimination clause have been criticized by NGOs and scholars.

The cases *J. Ballantyne and E. Davidsson and G. McIntyre v. Canada* (communications nos 359 and 358/1989) dealt with English-speaking citizens living in Quebec, the French-speaking province of Canada. The applicants regarded themselves as persons belonging to a linguistic minority, and they claimed that their rights under Article 27 had been violated when they were prohibited from using a language other than the official one (French) in advertisements. The HRC did not regard the applicants as persons belonging to a linguistic minority. According to the HRC, the reference to a state in Article 27 refers to the ratifying state as a whole; in the case of a federal state that means all parts of the federation. According to the HRC, minorities as referred to in Article 27 are minorities within such a state and not minorities within a province of that state. A group may constitute a majority in a province, but still be a minority in the state and thus be entitled to the benefits of Article 27. This view has been criticized because it would limit the scope of Article 27 and raise questions regarding the human rights duties of an autonomous regime within a state. A future linguistic rights case submitted to the HRC may be able to change the precedent set by this case.

In the case of *Apirana Mahuika et al. v. New Zealand* (communication no. 547/1993) the authors were from the Maori indigenous community and claimed that by limiting their fishing rights through a new law, the government was violating their rights. The committee, in deciding this case, considered that although only individuals can claim violation of their rights under the Optional Protocol, the provisions of Article 1 may be relevant in interpreting other rights, particularly Article 27. The HRC emphasized that the acceptability of measures that interfere with or affect: 'culturally significant economic activities of a minority depends on whether the members of the minority have had the opportunity to participate in the decision-making process'.

The committee noted that the government undertook an extensive consultation process where:

'Maori communities and national Maori organisations were consulted and their proposals did affect the

design of the arrangement. The Settlement was enacted only following the Maori representatives' report that substantial Maori support for the Settlement existed.'

The HRC found that this broad consultation, while paying attention to the sustainability of Maori fishing activities, meant that the legislation was compatible with Article 27 despite the authors' claim that they and the majority of their tribes did not agree with the Act.

Selected cases of the Committee on the Elimination of Racial Discrimination

The obligations undertaken by states parties in Articles 1–7 of the ICERD may successfully be invoked by minorities under the complaints procedure of Article 14, provided the state concerned has ratified the Convention and expressly accepted the Article 14 procedure. The following CERD cases are interesting and important from a minority rights perspective. For full texts of committee opinions, see the OHCHR website.

In *A. Yilmaz-Dogan v. the Netherlands* (communication no. 1/1984), a Turkish citizen claimed to have been subject to racial discrimination when her employment was terminated. Even though the reasons given for the termination were not discriminatory as such, the CERD found that the employer had taken racial considerations into account when dismissing the applicant. Therefore it was found that the government of the Netherlands had not taken adequate means to enforce the Convention on its territory. The committee suggested that the government use its good offices to secure employment for the applicant if she was not gainfully employed at the time of the decision.

In the case, *Demba Talibe Diop v. France* (communication no. 2/1989), the applicant was a Senegalese citizen living in France. He claimed that France had violated his rights under Article 5 of the ICERD when he was denied a licence to practise law, but the CERD did not find that the provision had been violated, because the refusal was based on Mr Diop's not having French nationality. According to Article 1, paragraph 2 of the ICERD, distinctions between citizens and non-citizens do not fall under the scope of racial discrimination as defined in Article 1, paragraph 1.

In the case *L.K. v. the Netherlands* (communication no. 4/1991), the author was a Moroccan citizen living in the Netherlands who had been subjected to harassment and insults by a xenophobic mob. He claimed that his rights in Article 4 had been violated and that the authorities had not acted properly according to their obligations under this Article. The CERD found that the threats and actions against the author constituted violations of Article

4 and that the authorities had not satisfactorily investigated the incidents, and had not instituted appropriate legal proceedings against the perpetrators. The CERD recommended that the state review its policies and procedures concerning the prosecution of alleged racial discrimination, in light of Article 4 of the Convention. This conclusion by the CERD is significant for minority use of Article 4 as it may help overcome discrimination.

The case *Hagen v. Australia* (communication no. 26/2002) concerned the name of a grandstand in a sports stadium. The 'ES Nigger Brown Stand' was named after a local sporting hero in the 1960s, who was nicknamed 'Nigger Brown'. The name appears on a large sign on the stand. The author complained that the sign was offensive and should be removed. The committee took into account the facts that the sign had been erected in 1960, had not been designed to demean Mr Brown and had been displayed for 40 years without any complaints. While not finding a violation of the Convention, the committee nevertheless found that maintaining the sign now could be considered offensive even if it was not considered offensive in the past. The committee considered that the Convention, as a living instrument, must be interpreted and applied taking into account contemporary circumstances. They recommended that Australia take measures to secure removal of the offending term from the sign.

3.5 Thematic/general discussions

The CESCR and CRC hold a 'day of discussion' and the CERD holds a 'thematic discussion' on a particular issue. The CAT, CEDAW and HRC do not hold thematic or general discussions. The aim of these discussions is to provide an opportunity to develop understanding on non-country specific issues. They allow for input from different sources (including NGOs) into the work of the committees. They often lead to the committee adopting a General Comment or General Recommendation on that topic.

NGOs can propose topics for discussion to sympathetic committee members in an informal manner. The committee as a whole decides the topic for discussion. The extent of NGO involvement in preparations for the discussions varies between committees, with the CRC being the only committee with formal involvement of NGOs. In all cases NGOs, regardless of ECOSOC status, can submit written information to the committee. All NGOs can also make an oral statement during the discussion. NGOs wishing to attend and make statements have to register with the secretariat and may be requested to submit copies of their statement in advance.

CERD thematic discussion on descent-based discrimination

Descent-based discrimination was proposed as a topic for a CERD thematic discussion by one of the committee members. Awareness of the issue had increased through the 2001 World Conference Against Racism (WCAR). Following the proposal, NGOs successfully lobbied the committee to take up the topic.

Good NGO preparation for a thematic discussion is necessary, along with good coordination. In this case, much of the work had already been done through preparation for the WCAR; NGOs knew the main opposition arguments they would face and had time to prepare counter-arguments. NGOs knew that in the case of discrimination based on descent, it was important that they present the issue as a worldwide problem in order to secure support from committee members who were wary about taking up an issue that is generally considered to affect predominantly one region.

Many national NGOs and members of affected communities attended the thematic discussion, in August 2002, to present first-hand evidence of the problem to the committee. This type of testimony is very important in persuading committee members who are ambivalent about an issue. NGOs also submitted a large amount of written information to the CERD.

Taking into account the discussion, the CERD adopted General Recommendation no. XXIX later during that session. An independent evaluation of NGO work around the thematic discussion concluded that:

'without the NGO lobbying on the issue of caste and descent-based discrimination, both in the lead-up to the World Conference on Racial Discrimination in 2001, and specifically directed at CERD, a General Recommendation would not yet have been adopted by CERD on either descent-based discrimination in general or any of its specific forms, such as "castism" or caste-based discrimination'.³⁶

The CERD has held three thematic discussions: on Roma, descent-based discrimination and non-citizens. NGOs have been highly involved in each. Unlike some other committees, thematic discussions are the only formal time when NGOs can address the CERD. The first two thematic discussions resulted in the adoption of a General Recommendation on the topic and it is possible the same will happen with the third. For information relating to CERD thematic discussions, see the annual report of the committee to the UN General Assembly, available on the OHCHR website.

The CESCR holds, at each session, a day of discussion on one particular right or aspect of the Covenant. Previous topics addressed include: education, gender equality, globalization, health, human rights, intellectual property, and work. For documents relating to the CESCR discussions, see: <http://www.bayefsky.com/tree.php/id/10>.

NGOs have a more formal role in CRC discussions. After the CRC decides on a topic, the NGO group for the CRC requests written submissions from all interested NGOs. These written submissions are available on the CRIN website and are sent to the committee. In 2003, the CRC held its discussion day on the rights of indigenous children. Following the discussion, the committee issued recommendations to improve implementation of the Convention for indigenous children. In a number of cases, days of discussion have led to a General Comment on the topic and in the case of the discussion on children and armed conflict, to the adoption of the first Optional Protocol to the Convention. Other previous topics of discussion have included: the girl child, HIV/AIDS and violence against children. For more information on past and future days of discussion, see the OHCHR website: <http://www.unhchr.ch/html/menu2/6/crc/doc/discussion.htm>.

4. Charter bodies

4.1 The Commission on Human Rights

The CHR is the highest-ranking UN forum dedicated to human rights within the hierarchy of UN political organs (see section 1 for the UN structure). The CHR consists of 53 member states, elected by the ECOSOC; diplomats represent these states. States that are not members of the CHR can send representatives to the meetings as observers, they can address meetings but do not have the right to vote. This is also the case for NGOs in consultative status with ECOSOC (see section 1 and Annex 6.2 for more details), specialized agencies, other UN bodies and other international organizations. The Commission meets at the Palais des Nations in Geneva for six weeks every year. It may also be convened for emergency sessions. This happened with regard to the situations in Rwanda and the former Yugoslavia. Most of the meetings are public and are also open to the press.

There are different ways for NGOs with ECOSOC accreditation to participate in the CHR and you should choose the means that fits best with your objectives. This could be making an oral intervention in the main session, submitting a written statement, initiating dialogue with your government, lobbying government representatives to influence the outcome of a CHR resolution, networking with other NGOs or a combination of these activities.

Interventions

The agenda of the CHR is mainly thematic with the exception of one item that addresses: ‘the violation of human rights [...] in any part of the world’, under which the situation in any country can be raised. One agenda item is devoted to racism and another to indigenous issues. Minority issues fall under the item on ‘specific groups and individuals’. However, minorities can raise issues of concern under other agenda items concerning violations that affect them. For example, a minority NGO could, depending on the specific facts of its situation, choose to raise housing rights affecting its community under many suitable agenda items, including: country-specific violations; economic, social and cultural rights; gender; racial discrimination; specific groups and individuals (minority issues); and the right to development.

NGOs should be aware that under thematic agenda items, you may not make interventions solely concerning

a specific country. Countries can be mentioned as examples but the statement should be based on the theme.

NGOs can submit written statements prior to the CHR. These will be issued as UN documents and circulated, under the relevant agenda item, to all participants. The maximum length of statements depends on the type of ECOSOC status held by the NGO. Statements can be submitted in any of the six UN languages and will be circulated in the language in which they are received; therefore, NGOs must translate the statements themselves if they wish their statements to be available in different languages. The advantage of submitting written statements is that your information is circulated to every participant, is available as an official UN document (this could be useful in enhancing the credibility of your NGO domestically) and is also available on the UN website. However, the value of written statements is limited; the CHR produces thousands of pages of documents and participants do not have time to read them all.

NGOs can make one oral intervention per item on the agenda, up to a maximum of six interventions during one CHR session. The length of time NGOs can speak is determined by the member states of the CHR and is subject to change during the session. Joint statements made by NGOs are encouraged and speaking time is increased for these joint interventions. A joint statement counts as one-third of a single intervention within the six-intervention limit. You can make an oral intervention and submit a written statement on the same subject; however, these statements must be different – you cannot simply read out a written statement. Interventions must be made in one of the UN languages. The most effective interventions are clear and logical, and avoid overly emotional or politically charged language. You should ensure that your intervention is clearly related to the theme of the agenda item throughout and you should finish with constructive recommendations for action that you would like taken by the CHR, other UN bodies, governments or the international community. For more information, see Annex 6.4.

The size and status of the CHR means that raising issues there can get your concerns heard by a wide audience. However, the CHR is a highly political body, controlled by governments and this means that it has serious limitations. Under each agenda item, governments that are members of the CHR speak first, followed by observers, followed by NGOs. Speaking time for NGOs is

the first to be cut if the CHR is running behind schedule. States will sometimes make a right of reply to an NGO (more usually, they reply to other states) but NGOs do not have a right of reply to a state. Often when a state does reply to an NGO, the reply consists of the state attacking the legitimacy of the NGO and the credibility of the information; therefore, you should be very clear about your sources. Another problem for NGOs is a lack of resources, so they are unable attend the CHR for more than a few days. This means that if the CHR falls behind schedule NGOs may have to leave before their turn to speak.

Making an oral intervention and submitting a written statement will not, in themselves, have much impact. Therefore, it is important for you to use your intervention as a means for other advocacy work.

Dialogue with your government

One possibility is for you to contact your government representative in advance of making the intervention, tell them what you propose to say and ask for their reaction. You may have a specific action that you want them to take. Governments do not like to be publicly criticized and may be willing to take the action you wish, or make a gesture of goodwill, in order to avoid an unfavourable intervention. Government representatives at the UN operate according to instructions received from officials in the capital, so you should allow enough time for consultations before you make your intervention. If the government responds positively, you can include this in your intervention and thank them for the action taken. This will ensure that you have a public record of their commitment to act that you can use if they later fail to take the steps promised. If you do not get a positive response, you can make your intervention as originally planned. It may be useful for you to keep in close contact with colleagues in your country who will be able to verify the government response.

You may wish to use your time in Geneva to initiate dialogue with your government representatives, especially if you have not been able to voice your concerns at home. Since the government delegates require instructions from the central government, they will not be able to take actions or decisions; however, they may put you in touch with appropriate officials. You may also find that your presence at a UN meeting encourages government officials to take you more seriously and listen to your concerns on your return home.

Influencing CHR Resolutions

The CHR adopts hundreds of Resolutions and decisions on different human rights issues. NGOs can influence these Resolutions. Resolutions of the CHR govern the way the other Charter-based human rights bodies work;

Case study: Nubian community in Kenya

MRG has been working with partner organizations to raise the issue of the denial of citizenship to the Nubian community in Kenya in different forums including the regional African Commission on Human and Peoples' Rights, CERD and CHR. The idea behind the strategy of raising the same issue in different forums is to keep constant pressure on the government. The issue was raised at the CERD thematic session on non-citizens in March 2004 through the attendance of a partner organization. At the CHR in 2003, MRG worked closely with an NGO with good contacts with the Kenyan delegation; while the partner organization stayed informed of developments in Nairobi, to assist the NGOs present in Geneva to decide whether to make an intervention and what the most effective intervention would be. Once all parties were convinced that there would be no significant action by the Kenyan government, the NGOs prepared and delivered an intervention explaining the situation of the Nubians and recommending that the Kenyan government start a dialogue with the community

for example, CHR Resolutions create or amend the mandate of Special Rapporteurs/Representatives (SRs), control the work of the Sub-Commission and its working groups, and give a good indication of the thinking of the international community on human rights issues. Take time to become familiar with the type of language used in UN Resolutions. Each Resolution is sponsored by a state that takes responsibility for drafting the text and for negotiations over the draft. Some Resolutions are very contentious; on others there is consensus. Initially all discussions take place between government representatives in private and focus on the wording of the Resolution. NGOs who wish to influence the wording of the Resolution need to lobby the representative of the sponsoring state and other sympathetic states to obtain their support for the requested wording. It may also be useful to speak to states that are not supportive in order to try to persuade them not to actively oppose the wording.

Once agreement is reached on the draft, it is considered for adoption by the 53 members of the CHR. If no states have any comments to make on the draft Resolution, it is adopted by consensus. States that object to the draft may ask that the CHR takes a vote. A majority is required to pass the Resolution. During the drafting process you should get an idea of whether the resolution will be decided by a vote. If so, NGOs will need to lobby those states whose position is undecided to try to win their support, and those states in opposition, to try to persuade them to abstain rather than vote against the Resolution. NGOs should be aware that states sometimes take a group position on an issue, for example all of the

European Union or all African Group states will vote the same way. In this case, NGOs will need to lobby for the support of the group. Group or block voting is increasing. This is a serious concern because positions are becoming polarized with greater North–South divides appearing every year. When such group voting comes into play with regard to country-specific Resolutions, the seriousness of the human rights situation in that country may not play a significant role in the outcome of the Resolution. As a result, the strongest Resolutions usually concern diplomatically-isolated countries. Once adopted by the CHR, all Resolutions go to the ECOSOC for approval and then to the General Assembly.

Networking

The CHR provides a good opportunity for networking with experts and other NGOs. Use the coffee shop and restaurant to make informal contacts and set up meetings. Your presence in Geneva provides the opportunity to meet with officials and experts working in all the Geneva-based agencies, such as the ILO, OHCHR, UNAIDS, UNHCR, etc. UN SRs (see section 4.2) present their reports to the CHR and they often hold briefings for NGOs. Every lunchtime there are meetings organized by NGOs on a variety of issues to which experts are often invited to speak. These events are useful for making contacts with people who could be helpful in your work. You may wish to organize a meeting with other NGOs working on similar areas to inform others about an issue or discuss solutions to a problem.

4.2 Special procedures

The purpose of special procedures is to monitor human rights problems and report on them to the CHR. The special procedures consist of an individual (called a Special Rapporteur or Special Representative [SR] or Independent Expert [IE]) or a group of individuals (a working group).³⁷

Some of the working groups and SRs deal with thematic mandates, that is, specific human rights problems such as disappearances, education or racism, while other working groups and SRs address country-specific situations focusing on a state where there are serious human rights violations. See Annex 6.5 for a complete list of country-specific and thematic mandates. There is no specific mandate for minorities; however, many special procedures have addressed minority issues. Minorities should use all of the special procedures relevant to their concerns. Bringing minority issues to the attention of a variety of different special procedures may contribute to mainstreaming minority protection in the UN.

Unlike the treaty monitoring bodies, which can only address issues in states that have ratified the particular

treaty, the special procedures can examine the situation in all states. This makes them particularly useful for NGOs in states that are not a party to the main human rights treaties. Special procedures can bring situations that other human rights mechanisms cannot address to international attention. NGOs play an important role in the special procedures system. They provide information to the special procedures on both general human rights situations and on specific violations, and are often vital in advocating for the establishment of a special procedure on a specific theme or country.

The effectiveness of the special procedures, and their openness to NGOs, is to a large extent dependent on the individual appointed to the position. All of these experts – whether IEs or SRs – serve in their personal capacity for a maximum of six years and are expected to be politically independent; however, they are appointed by the states of the CHR; appointment is a political process. They are not paid for their work and receive only limited research and administrative support from the OHCHR. All experts produce reports for the CHR and the GA on their work. (These reports can be found by selecting the relevant link on the thematic mandate page: <http://www.unhchr.ch/html/menu2/7/b/tm.htm> or the country mandate page: <http://www.unhchr.ch/html/menu2/7/a/cm.htm> of the OHCHR website.) The CHR defines the scope of the mandate and may request IEs to include certain themes in their reports. NGOs can lobby for the CHR to request that particular attention be paid to minorities.

The mandates of the different special procedures vary; however, there are a number of common elements. (The mandate of any particular special procedure can be found in the CHR Resolution that created it; see the OHCHR website.)

Information gathering

Most special procedures research issues relating to their mandate using information received from governments, other international institutions, NGOs and UN agencies. The procedures most obviously relating to minority issues include the SR on racism, the SR on freedom of religion, and for minorities who also identify as indigenous, the SR on indigenous peoples. However, many other special procedures address issues of concern to minorities and these procedures could also be of value. In addition, encouraging special procedures that have not as yet paid sufficient attention to minority concerns is important in order to raise the visibility of minorities within the UN system. Two examples of thematic special procedures addressing minority concerns are the SRs on health and on adequate housing. The first report, in 2003, of the SR on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, emphasized non-

discrimination as a key theme of the mandate and a fundamental principle in access to the right to health. The SR expressed his intention to address the impact of discrimination and stigma on the health of particular groups including racial and ethnic minorities during the course of the mandate. The SR on adequate housing as a component of the right to an adequate standard of living, addressed the issue of forced evictions in 2004. The report examined the main causes of forced evictions, including development-induced displacement, and eviction in conflict and post-conflict situations. The SR also examined particular groups including minorities and indigenous peoples who are more likely to be victims of forced displacement. NGOs with information relating to themes being studied by the special procedures should send relevant information to the OHCHR. (See Annex 6.1 for details.)

Individual communications

Some special procedures are authorized to intervene on behalf of individuals. NGOs can submit information on a specific violation to the expert. In some cases the expert will send an urgent appeal to the government requesting information on the allegation and seeking assurances that the government will take preventative action or undertake an investigation. Sometimes the fact that a violation has been brought to the attention of a special procedure is enough to stop human rights abuse. In some cases, the government will reply to the expert, denying that violations have occurred or reassuring the expert that they will take preventative action. In other cases, the expert will not receive any response from the government. Apart from reporting state failure to respond to the CHR or other UN human rights bodies, in the hope that international pressure will result in government action, there is little else an expert can do. They can only intervene when they receive credible information about a violation. Several mechanisms provide specific guidelines on the format for submitting information, see: <http://www.unhchr.ch/html/menu2/8/question.htm> for details. Each expert decides, on the basis of the information received, whether to take up the case. If a complaint contains abusive language or is obviously politically motivated, it will not be considered. Experts include information about allegations of violations, and the response of the government concerned, in their reports to the CHR. NGOs should send communications, addressed to the relevant special procedure, to the OHCHR. (See Annex 6.1.)

Country visits

Many mandates authorize the SR or IE to undertake country visits. (See Annex 6.5 for details.) These allow experts to meet with government officials, NGOs and

other actors to directly assess the situation. Experts require an invitation from the government to make a visit. In some cases governments refuse their requests to visit. Some governments, however, have issued a 'standing invitation' to all special procedures. This means that any expert can visit that country. See: <http://www.unhchr.ch/html/menu2/2/invitations.htm> for a list. Due to UN budget constraints, experts usually only make two visits in a year. They require freedom of movement and freedom to meet with whoever they choose, without government interference. For a comprehensive list of past visits, by country with links to visit reports and details of planned future visits, see: <http://www.unhchr.ch/html/menu2/2/visits.htm>.

Country visits have been cut short or cancelled because of constraints imposed on experts by governments. For example the SR on the situation of human rights in Myanmar/Burma suspended a visit in March 2003 after finding a listening device in the room where he was conducting interviews.³⁸ Experts also request assurances from governments that the people they meet will not face threats or harassment as a result of cooperating with them. However, this does not necessarily guarantee safety. In Brazil, in October 2003, two witnesses were assassinated shortly after providing testimony to the SR on extrajudicial, summary and arbitrary executions.³⁹ Experts will try to follow-up a person's situation with governments if they have concerns in this regard. For example, the SR on the right to education highlighted in her 2003 report her ongoing concern about the fate of a group of Kurdish students she had met during her mission to Turkey, and the failure of the government to respond to her enquiries.⁴⁰

NGOs can get involved at all stages of a country visit. They can lobby the government to invite a particular expert, or to issue a standing invitation to all special procedures. When an expert visits, NGOs can provide information to and/or meet the expert. They can request the expert to raise issues or violations with the government and to seek dialogue or redress for victims. NGOs can use the visit to gain national media interest in their issues of concern and, following the visit, they can use the expert's reports to put pressure on the government to improve the situation.

4.3 Sub-Commission on the Promotion and Protection of Human Rights

The Sub-Commission is a subsidiary body of the CHR. It consists of 26 experts who serve in an independent and individual capacity. They are nominated by states and

elected by the CHR for a period of four years. (See: <http://www.unhchr.ch/html/menu2/2/subcmem.htm> for the current membership.) The Sub-Commission meets every year for three weeks at the Palais des Nations in Geneva. Representatives of governments participate as observers, as do representatives of inter-governmental bodies, international organizations and NGOs with ECOSOC consultative status.

The Sub-Commission is a human rights think-tank that makes recommendations to the CHR regarding developments, forward-looking studies, monitoring, standard-setting and technical assistance. Decisions on whether to take forward the Sub-Commission's recommendations are made by the CHR.

In undertaking its mandate, the Sub-Commission addresses only thematic human rights issues. The CHR, in 2000, decided that the Sub-Commission would no longer make country-specific Resolutions and should not issue thematic Resolutions that refer to specific countries. It can address country-specific situations that are not being dealt with by the CHR and can discuss grave violations of human rights in any country, but without issuing Resolutions.

Thematic issues studied by Sub-Commission members include: the concept and practice of affirmative action, discrimination based on work and descent, indigenous peoples and their relationship to land, the rights of non-citizens, and traditional practices affecting the health of women and the girl child. For more information on Sub-Commission research, see section 5.2.

The Sub-Commission has an agenda item on the prevention of discrimination each year and a sub-item of this on minorities. Minority concerns can and should also be raised under other thematic items. Many members of the Sub-Commission are interested in minority issues and open to discussions with NGOs. Minority NGOs may also be able to feed into the thematic studies by the Sub-Commissioners by submitting information to them or through informal discussions.

The Sub-Commission may suggest the establishment of working groups. Currently, the Sub-Commission has six working groups: the Working Group on Administration of Justice, the Working Group on Communications, the Working Group on Contemporary Forms of Slavery, the Working Group on Indigenous Populations, the Working Group on Minorities, and the Working Group on Transnational Corporations.

The Social Forum

The Sub-Commission held the first Social Forum, a one-day meeting on economic, social and cultural rights, immediately before its session in August 2002. Sub-Commission experts, government representatives, a large

number of NGOs (with ECOSOC consultative status) and academics participated in the discussions, which focused on globalization and human rights, and the right to adequate food and poverty reduction. NGOs were able to contribute to the discussions on the day. They also held their own meeting before the Social Forum to discuss the themes and presented their conclusions to the Forum, thus maximizing NGO input. NGOs can use the Social Forum to lobby for strong recommendations to be issued by the Sub-Commission to feed through to the higher bodies in the UN system. The 2004 Social Forum will focus on rural poverty, development, and the rights of peasants and other rural communities.

4.4 Working Group on Minorities

The Working Group on Minorities (WGM), established in 1995, is the only UN forum dedicated to minority issues. It is a unique forum where representatives of minorities can raise concerns, network with each other and, in some cases, engage in dialogue with representatives of their governments. However, as a subsidiary organ of the Sub-Commission it is low in the hierarchy of UN bodies (see the UN structure in section 1) and its influence is limited. NGOs should consider it as a useful tool in a long-term approach to minority issues. It is not a body which can undertake urgent action when violations occur, nor can it take up situations of violations of minority rights in specific countries and pressure governments into remedying them.

The WGM meets for one week per year. It is made up of five expert members of the Sub-Commission, one from each geographical region of the world. The current membership can be found at: <http://www.unhchr.ch/html/menu2/2/subwg.htm>. Other participants at WGM meetings include representatives of governments, inter-governmental organizations such as the European Commission, UN agencies, academics and NGOs, the latter often being members of minorities. The advantage of the WGM for minority NGOs is that it is open to NGOs without ECOSOC consultative status. The only conditions are that participating NGOs must not advocate violence and must not be a political party based on ethnicity. To participate, you need to write to the secretariat of the WGM at the OHCHR (see Annex 6.1 for contact details) with background information about your NGO and describing your work with minorities. The secretariat will assess your application and will usually send you an accreditation letter. The OHCHR provides funding for a limited number of people to participate in the WGM (contact the secretariat for details). MRG also facilitates attendance at the WGM through its annual Minority Rights and Advocacy training programme.

The WGM has a very specific mandate: it was established to examine ways and means to promote and protect the rights of persons belonging to minorities as set out in the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM). Its three main tasks are: (1) to review the promotion and practical realization of the UNDM; (2) to examine possible solutions to problems involving minorities, including the promotion of mutual understanding between and among minorities and governments; and (3) to recommend additional measures for the promotion and protection of minority rights. In undertaking these tasks, the WGM invites information from NGOs and academics on the situation in specific countries with respect to the implementation of the UNDM, and tries to promote dialogue on these issues between representatives of minorities and governments. It also takes a thematic approach. Themes addressed by the WGM have included: conflict prevention, development, identity, intercultural and multicultural education, issues of autonomy and integration, language rights, participation, recognition of minorities, and the situation of non-citizens. Additional measures recommended under the third task include, establishing a voluntary fund for minorities,⁴¹ holding an International Year and/or Decade and appointing a Special Representative on Minorities.

Another objective of the WGM is to act as a forum for advancing understanding of international minority rights, and to produce texts or guidelines that clarify specific aspects of those rights. One example is the Commentary on the UNDM produced by the first WGM chair, Asbjørn Eide,⁴² following a process of consultations with NGOs, academics and government delegates. This Commentary aims to provide guidance on the meaning, scope and application of the provisions of the Declaration. In addition, there is an initiative to support the preparation of statements of principles on minority rights at a sub-regional level, and to advance cooperation between different actors at sub-regional and regional levels. At the 2004 session, the WGM announced its intention to start preparing General Comments on specific issues and themes including: education, effective participation, exclusion, land deprivation, protection from forced assimilation, and protection of places of worship and sacred places.

NGO participation

The openness of the WGM to NGOs means that NGOs can use the WGM to raise issues that might otherwise not get discussed internationally. An oral intervention provides the opportunity to present your concerns and recommendations to the WGM, government and other observers present. (See Annex 6.4 on writing an interven-

tion.) The chair may comment on the contents of NGO interventions, and the representative of your government may make a reply either immediately or later in the meeting after they have had time to consider your statement. The WGM is unusual because NGOs can often reply to government statements, which does not happen at other UN forums. This can allow for real dialogue within the forum. Members of the WGM have also played an active role in encouraging this dialogue by seeking clarifications, concrete proposals and responses from speakers. However, one of the weaknesses of the WGM is the lack of partici-

Case study: Multicultural Coalition of Botswana and the WGM

A representative of the Multicultural Coalition of Botswana attended the WGM in 2004. Before the session, she contacted the Botswana diplomatic mission in Geneva and arranged a meeting to discuss her intervention. At the meeting she gave the Botswana ambassador a copy of her intervention, which they discussed and he provided some input. On the first day of the WGM, she made her intervention concerning the non-recognition of non-Tswana-speaking tribes and the discrimination against linguistic minorities in Botswana. She highlighted a case where the Wayeyi tribe had won but the government had not implemented the court decision, and made recommendations to the Botswana government and the WGM. The ambassador had come to the WGM with a prepared reply. He gave her a copy a few minutes before he made his statement. In it he emphasized the richness of diversity in Botswana and stressed that the Constitution prohibited discrimination. At the same time, he said that national unity was the most important principle and that no one tribe was greater than the nation. He also said that domestic remedies should be exhausted before an issue is raised internationally. The WGM chair disagreed with the last point and noted that the exhaustion of domestic remedies only applies to individual complaints to treaty bodies. The representative of the Multicultural Coalition of Botswana immediately asked to speak again and replied to the ambassador saying that national unity is not synonymous with uniformity; promotion of only one language and culture has resulted in Tswana supremacy and division within the nation. She noted that the ambassador had said minorities could obtain redress through the courts and pointed out that three years had passed since the Wayeyi case, yet there had been no changes.

Even though the ambassador did not promise to carry out the action requested by the NGO, the representative felt that his attendance, his response at the WGM and the dialogue initiated, were positive steps. On her return to Botswana, the representative's intervention and response to the ambassador were published by newspapers, further contributing to the overall campaign.

pation by governments. This means that opportunities for promoting dialogue are often missed. It is useful to inform your government representative in Geneva that you will be attending the WGM. You could submit your intervention to them or at least outline the issues you intend to raise, in order to encourage their attendance. You may prefer to wait until you have left your country to travel to Geneva, before informing your mission of your attendance, if you are concerned that your government may try to prevent you from travelling.

It is also possible, and often very productive, for NGOs to meet with representatives of their government missions outside the WGM sessions. If you send a copy of your intervention in advance to your mission, you can request a meeting to discuss it (it often helps to allow a few days for them to communicate with the central government in the capital regarding the issues you bring up). Even if you are unable to submit your intervention in advance, it is still worth making contact with the mission. Minority activists have reported that due to the neutral territory of the UN, they have been able to engage in dialogue with the Geneva mission in a way that is impossible back home, and that their participation in a UN forum confers prestige on them that encourages the government to take them more seriously.

Since the audience at the WGM is relatively small, and the WGM mandate limited, the impact of your intervention will also be limited. All the WGM can do is encourage dialogue with your government representative, if they are present at the session, or communicate the intervention to the government mission, if they are not present. Some points in your intervention may be record-

ed in the final report of the WGM; however, due to lack of space, it is unlikely to be more than a few sentences. This means that it is important for you to maximize the potential impact of your intervention through seeking dialogue with your government representatives (as described above) and by publicizing your intervention. You can do this by rewriting it in a form suitable for sending to the media in your country and by contacting journalists based in Geneva. (See section 1 for more details on media work in Geneva.) You can maximize the impact of your attendance at the WGM by using your time in Geneva to make useful contacts and arrange other meetings with people who can assist in your work, such as inter-governmental and UN agencies, other minority-based NGOs, etc.

NGOs can prepare a short paper for the WGM. Papers are often thematic, although some are country specific. Not all papers are accepted by the WGM. Those accepted will be issued as working papers with a UN document reference and they can be discussed during the WGM session. Working papers from previous sessions of the WGM can be found at: <http://www.unhchr.ch/minorities/group.htm>. For more information on submitting a paper, contact the WGM secretariat. Once a paper has been introduced, the chair often shapes the discussions so that participants can raise their hands and make comments. These comments are in addition to the oral intervention permitted under each agenda item, and in this way NGOs can further contribute to the debate on issues concerning their communities.

Other WGM activities

As with other UN human rights bodies, the WGM can only make country visits at the invitation of the government. The WGM has made two country visits – to Mauritius in September 2001, and to Finland in January 2004. The objective of the visits was for the WGM to examine the experience of the respective countries in the accommodation of minority groups and to highlight good practice. WGM members met with government representatives, journalists, NGOs and members of minority communities during the visit, and issued a report⁴³ including recommendations for action. Financial constraints are one of the reasons why the WGM has not visited more states; even if a government issues an invitation, unless it can also pay for the visit, the WGM does not have the funds to go.

The WGM has organized a series of regional meetings aiming to address, in greater detail, issues relating to that region. Three seminars, in Tanzania, Mali and Botswana addressed multiculturalism in Africa, including the constructive accommodation of different minority groups. Afro-descendants' rights were the focus of seminars in Honduras and Canada. They addressed the situation of

Case study: CEMIRIDE and the WGM

A representative of the Centre for Minority Rights Development (CEMIRIDE), Kenya, attended the WGM in 2002. They describe the positive impact of their participation on their work:

'CEMIRIDE put the Ogiek issue onto the international agenda at the Working Group on Minorities. The government took the issue on board, the Lands Minister had a meeting with us. Now the Minister is in consultations with the Ogiek people. All this is due to the international focus, which began with the WGM. We used the statements we made at the WGM to lobby the government. Now we have an official statement from the President that minority rights have to be protected in the new Constitution. We believe that the fact that we tabled these issues at the WGM contributed to these developments, and made it easier for us to gain access to the government – they take us more seriously. And for most minorities, the WGM is the only avenue of access to the UN system.'

The Caucus of Minorities

The 2003 WGM saw an important new development. For the first time, the WGM turned the meeting room, including interpreters, over to minority NGOs for a two-hour closed meeting in which the NGOs formulated detailed recommendations for the WGM to consider. The idea came from a discussion between several NGOs who proposed to the WGM that all NGOs present be given time to meet. There was opposition from some governments who objected to an NGO meeting taking place within the ordinary time of the WGM and using the UN translation facilities. Others objected to the possibility that NGOs might write the recommendations of the WGM. However, the chair supported the proposal and stressed that all recommendations submitted to the WGM would be carefully considered by the members. The first ever 'Caucus of Minorities' produced some interesting discussions on ways to strengthen the mechanisms for the protection of minority rights in the UN system and submitted extensive recommendations to the WGM. Many of these recommendations were taken up by the WGM in their own recommendations issued at the end of the session. The Caucus met again during the 2004 session. The 2004 Caucus reported its conclusions to the WGM and some issues were included by the WGM in their recommendations. It is important that this positive step is built on in future sessions of the WGM. The more that minority NGOs work together, the stronger their voice becomes.

Afro-descendants in the Americas, and aimed to provide concrete practical recommendations for the WGM and OHCHR. The seminar in Thailand focused on cultural diversity and development. Reports from the regional seminars are available on the OHCHR website. NGOs have welcomed and encouraged regional seminars. One of the main objectives of regional seminars, apart from discussion of the particular theme, is to reach out to NGOs and other experts in those regions who are unable, for practical reasons, to travel to Geneva. This illustrates how keen the WGM is to ensure that it roots its discussions in the realities faced by minority communities. The WGM envisages holding a follow-up seminar on Afro-descendant issues and another, organized with the Council of Europe, on Roma issues that would include participation of Roma from non-European countries.

4.5 Complaints under the 1503 Procedure

This is a confidential procedure that enables individuals, groups and NGOs to inform the UN of any human rights situation that may reveal a consistent pattern of

gross and reliably-attested violations of human rights and fundamental freedoms. This is not a procedure for dealing with individual complaints, and complaints do not have to be submitted by the victims themselves. This procedure has universal applicability, irrespective of ratifications of human rights treaties by the state concerned. The 1503 Procedure (named after the ECOSOC Resolution by which it was established in 1970) refers to rights and freedoms that are considered as common standards for all states, most importantly the provisions of the Universal Declaration of Human Rights (UDHR).

Individuals, groups or NGOs who claim to be the victim or victims of, or who have direct and reliable knowledge about, human rights violations may submit a communication under the 1503 Procedure. The information must be reliable and the communication must be submitted in good faith. The contents of the communication must not be inconsistent with the principles of the UN Charter, the UDHR or other human rights instruments. A communication must not be anonymous and will be found inadmissible if it shows political motivations, or if the language is abusive or contains insults directed towards the state in question.

The communication should outline the facts and refer to the human rights and minority rights standards that have allegedly been violated. Complaints should contain evidence to support allegations made and it is advisable to focus on a group or series of cases. The evidence supplied should support the argument that there is a consistent pattern of gross and reliably-attested violations of human rights and fundamental freedoms in a state.

The complaints are scrutinized in confidence, initially by the secretariat. NGOs will be informed if their complaint passes initial screening by the secretariat. It will be sent to the government concerned for comments and passed for consideration by working groups of the CHR and its Sub-Commission. After that point, you will not be informed of any further progress of the complaint, nor will you receive information about the government response. The member states of the CHR consider, in private meetings, communications submitted to them by the working groups, and concerned governments are invited to answer questions. Following this the CHR may recommend one of the following actions:

- to keep the situation under review in light of information submitted by the government concerned and from any other source;
- to keep the situation under review and appoint an IE or ask the Secretary-General to appoint an SR to collect more information from the government and the people and report back to the Commission;
- to decide to discontinue the case and place it under a public procedure; or

- to decide to discontinue the case with no further monitoring.

The chair of the CHR makes a public statement listing the states under consideration and the states that are no longer subject to scrutiny.

Tens of thousands of 1503 communications are received each year. Due to the confidentiality of the proceedings, it is not possible to determine the number of complaints concerned with violations of minority rights,

but it may be safely assumed that they constitute a large proportion of the communications submitted. Again, minorities can benefit from using this avenue, in particular when neither treaty-based complaints procedures nor applicable thematic or country-specific special procedures are available. However, it is a very political procedure; the member states of the CHR take the final decision on any action to be taken.

A communication under the 1503 Procedure should be sent to the OHCHR (see Annex 6.1 for contact details).

5. Other United Nations procedures

5.1 International Criminal Courts

In 1948, the Convention on the Prevention and Punishment of the Crime of Genocide anticipated the existence of an international penal tribunal (Article VI) as well as jurisdiction for the International Court of Justice in disputes between states parties (Article IX). However, it was not until July 1998, in Rome, that the UN Diplomatic Conference of Plenipotentiaries on the Establishment of an International Criminal Court adopted a statute of a permanent International Criminal Court (ICC). The Rome statute entered into force on 1 July 2002 creating the ICC with jurisdiction over genocide, crimes against humanity and war crimes, taking place on or after that date. The statute envisages that the ICC will also have jurisdiction over the crime of aggression, once states parties have agreed a definition. The ICC is an independent international institution established by treaty, but has formed ties to the UN. Victims, or civil society organizations representing them, can bring evidence of crimes to the office of the Prosecutor at the ICC to encourage the start of proceedings. Victims can also participate in the proceedings, and have a right to reparation.

National laws are expected to provide for extradition, prosecution and punishment when the international community has criminalized certain behaviour. When the national response to such crimes is totally inadequate, as in Rwanda and the former Yugoslavia, the UN Security Council (SC) has, in the past, established International Criminal Tribunals (ICTs – based in Arusha and The Hague, respectively). The SRs with mandates for Rwanda and for the former Yugoslavia have strongly supported the two ICTs and have collaborated in the collection of evidence, testimonies and other relevant information. The SC could create other *ad hoc* international tribunals (for example in respect of states which are not party to the ICC statute), or help in the establishment of mixed tribunals combining elements of national and international law (as in the recent case of Sierra Leone).

Crimes against humanity (falling under the jurisdiction of all these tribunals) have often been targeted against specific ethnic or religious groups, and genocide and persecution in particular are crimes that relate to the physical protection of minorities as a group. As such, the establishment of the ICC should have a positive impact in the drive for increased respect for minority rights.

For more information on the ICC, see: <http://www.icc-cpi.int/php/index.php>. For information relating to the ICT for Rwanda, see: <http://www.ict.rw> and for the ICT for the former Yugoslavia, see: <http://www.un.org/icty>.

5.2 Good offices

The UN Secretary-General, the UN High Commissioner for Human Rights and Directors-General of UN specialized agencies can undertake 'good offices' for the sake of minority groups in distress. Good office actions are undertaken confidentially, that is by way of quiet diplomacy, and the UN will not publish the results, although the parties may choose to do so. All it takes is a letter to one of the officials with a detailed and well-prepared factual account, identification of the human rights standards being violated, elaboration of the urgency involved, and an explanation of the unavailability or unsuitability of existing international monitoring procedures.

Good offices are advantageous in terms of speed, with action following within days or weeks, and in terms of their effect, because many countries are likely to respond positively to quiet diplomacy rather than suffer the public embarrassment associated with other monitoring procedures. One UN contribution in this context is in bringing the parties together, that is the government and, for example, the minority group. This role may or may not involve active UN participation in the contacts between the parties. It may be assumed that good office actions related to minority rights take place from time to time.

5.3 Research

Within the UN, various bodies in the field of human rights work prepare research reports which frequently contribute to policy-making activities. Foremost among these are the research rapporteurs and working groups established by the Sub-Commission (not to be confused with the SRs, and working groups of the Commission and their investigative functions). The research rapporteurs and the working groups are made up of experts drawn from the membership of the Sub-Commission. Similar think-tank services are provided by the UN secretariat, which may on its own initiative or at the request of other UN bodies present reports or surveys on a variety of human rights issues.

Other UN institutions are or have been engaged in related research, including: the UNESCO (management of multi-ethnic societies); UNICEF (on children belonging to minorities); UNRISD (on the relationship between economic and social development, and ethnic conflict); the UN Institute for Training and Research (UNITAR) (on human rights training and course materials on human rights reporting); and the UNU (United Nations University).

The studies and research reports serve as sources of information and inspiration, and often but not always lead to policy- and decision-making in various UN forums for both the setting of new standards and the enhancement of monitoring methods. Minority issues appear in many human rights studies of the Sub-Commission. These are either devoted exclusively to minority rights or to some general human rights issues with minority rights components.

Some studies related to minority issues include:

- possible ways and means of facilitating peaceful and constructive approaches to situations involving minorities;
- indigenous peoples and their relationship to land;
- the concept and practice of affirmative action;
- the rights of non-citizens;
- indigenous peoples' permanent sovereignty over natural resources; and
- discrimination based on work and descent.

For a full list of current studies by members of the Sub-Commission, with links to the relevant documents, see: <http://www.unhchr.ch/html/menu2/2/liststudrepts.htm>

5.4 Technical cooperation

The UN offers technical cooperation (also known as technical assistance or advisory services) to governments. This is intended to complement the various monitoring and investigative procedures. A variety of services are available

from the Crime Prevention Branch, OHCHR, UNDP, UNICEF and other secretariat units. The purpose is to provide practical assistance for the implementation of human rights at the national level, taking into account the international human rights standards. The expert assistance can include: assistance with drafting state reports to treaty monitoring bodies, drafting legislation, providing models for human rights education and teaching materials, reviewing existing legislation, setting up independent national human rights institutions, and training actors involved in the national implementation of human rights.

The rights of minorities should be part of technical cooperation activities. A few technical cooperation projects have addressed situations involving minorities, for example: by adding a minority rights component to human rights education; designing action to combat ethnic, linguistic or religious discrimination; offering suitable training courses for law enforcement officials; and strengthening the means for national implementation of the international standards.

As far as the UN secretariat is concerned, technical cooperation is rendered only at the request of a specific government. Some needs assessment projects undertaken by the OHCHR have identified minority rights as an area in need of attention; however, generally, minority issues have been addressed only on an *ad hoc* basis. This restrictive approach is largely a result of state reluctance to recognize minorities and minority rights. In this respect, there is definitely room and opportunity for improvement. Minorities have much to gain from bringing their legitimate demands to the attention of the respective UN departments, with the aim of putting pressure on governments. The respective UN policy- and decision-making bodies should be lobbied so that the secretariat can respond to requests from minorities and NGOs, if necessary in collaboration with the governments concerned. It is also important that the technical assistance activities of UN bodies, other international organizations and NGOs, be coordinated in order to enhance their effectiveness.

6. Annexes

6.1 Contact details⁴⁴

- **United Nations:**

UN Office of the High Commissioner for Human Rights
8–14 Avenue de la Paix
CH-1211 Geneva 10, Switzerland
Tel: +41 22 917 9000
Fax: +41 22 917 9016

- When submitting information to all mechanisms, clearly state the name of the mechanism on your correspondence.

- **For petitions to the treaty bodies (except CEDAW):**

OHCHR address as above
Fax: +41 22 917 9022
Email: tb-petitions@ohchr.org

- **For all communication with CEDAW:**

Committee on the Elimination of Discrimination Against Women
c/o Division for the Advancement of Women, Department of Economic and Social Affairs
United Nations Secretariat
2 United Nations Plaza, DC-2/12th Floor
New York, NY 10017, United States of America
Fax: +1 212 963 3463
Email: daw@un.org

- **For communications for the 1503 Procedure:**

Commission/Sub-Commission Team (1503 Procedure)
OHCHR address as above
Fax: +41 22 917 9011
Email: 1503@ohchr.org

- **For communications to special procedures:**

OHCHR address as above
Fax: +41 22 917 90 06
Email: urgent-action@ohchr.org

- **For UN official documents including states' reports:**

Documents Distribution Office
Door 40, Palais des Nations
CH-1211 Geneva 10, Switzerland
Tel: +41 22 917 4712 or 4900
Email: InfoDesk@ohchr.org

- **General enquiries:**

NGO Liaison Office, Palais des Nations
Room 153, CH-1211 Geneva 10, Switzerland
Tel: +41 22 917 2127
Fax: +41 22 917 0583
Email: ungeneva.ngoliason@unog.ch

- **To apply for NGO consultative status:**

NGO Section
Department of Economic and Social Affairs (DESA)
United Nations, Room DC1-1480
New York, NY 10017, United States of America
Tel: +1 212 963 8652
Fax: +1 212 963 9248
Email: desangosection@un.org

- **To order UN publications:**

United Nations Publications
2 United Nations Plaza
Room DC2-0853, Dept 1004
New York, NY 10017, United States of America
Tel: +1 212 963 8302 or +1 800 253 9646
Fax: +1 212 963 3489
Email: Publications@un.org
Or
Sales Office and Bookshop, Palais des Nations
CH-1211 Geneva 10, Switzerland
Tel: +41 22 917 2614 (orders),
Tel: +41 22 917 2613 (enquiries regarding publications, orders),
Tel: +41 22 917 2615 (subscriptions and standing orders)
Fax: +41 22 917 0084
Or
United Nations Bookshop
Concourse Level, 46th Street and 1st Avenue
New York, NY 10017, United States of America
Tel: +1 212 963 7680 or +1 800 553 3210
Fax: +1 212 963 4910
Email: bookshop@un.org

- **For information on the media at the UN in Geneva and contact details of ACANU:**

Service de l'Information
Palais des Nations
CH-1211 Geneva 10, Switzerland
Tel: +41 22 917 23 02
Fax: +41 22 917 00 30

Information services (NGOs)

- **General assistance/information service for NGOs in regard to CERD:**

Anti-Racism Information Service (ARIS)
14 avenue Trembley
CH-1209 Geneva, Switzerland
Tel: +41 22 740 3530
Fax: +41 22 740 3565
E-mail: aris@antiracism-info.org
Website: <http://www.antiracism-info.org>

- **General assistance/information service for NGOs regarding any UN human rights bodies:**

International Service for Human Rights
PO Box 16, 1 rue de Varembe
CH-1211 Geneva 20 CIC, Switzerland
Tel: +41 22 733 5123
Fax: +41 22 733 0826
Website: <http://www.ishr.ch>

- **General assistance/information service for NGOs in regard to the CRC:**

NGO Group on the Convention on the Rights of the Child
c/o Defence for Children International
PO Box 88, 1 rue de Varembe
CH-1211 Geneva 20, Switzerland
Tel: +41 22 740 47 30
Fax: +41 22 740 1145
Email: ngo-crc@tiscalinet.ch

6.2 How to apply for ECOSOC status

Your NGO must have been in existence (officially registered) for at least two years. It must have an established headquarters, a democratically-adopted Constitution, authority to speak for its members, a representative structure, appropriate mechanisms of accountability, and democratic and transparent decision-making processes. The rules state you should be able to show that most of your funding comes from non-governmental components, although this does not seem to be strictly applied. Your organization's activities must be relevant to the work of ECOSOC and in no way contrary to the provisions of the UN Charter.

Traditionally, most ECOSOC NGOs have been of an international nature, but increasingly, NGOs working on the national level are obtaining ECOSOC status. In their case however, the state concerned may be consulted before the application is approved.

There are three categories of consultative status. NGOs whose work covers most of the issues dealt with by ECOSOC can apply for General Consultative Status. These are usually fairly large international organizations. Special Consultative Status is for NGOs with specific competence in some of the fields of the work of ECOSOC. These tend to be smaller or more recently established NGOs. Roster Status is for NGOs who can make 'occasional and useful contributions to the work of the Council or its subsidiary bodies'. It is possible to obtain one category of consultative status and later apply to upgrade it. Different rules of participation apply to NGOs depending on their level of status. Speaking rights and time limits may vary, as may the length of written submissions permitted.

Initially you must send a letter, signed by your Secretary-General or President to the NGO Section of the Department of Economic and Social Affairs (DESA) expressing your intention to apply for ECOSOC status. (For contact details, see Annex 6.1.) You will then receive the application package. Your application must be submitted in English or French and all supporting documents must be submitted in one of those languages.

Your completed application has to reach the NGO section by 1 June. It will be considered by the Committee on NGOs at its session the following year. The committee is made up of representatives of 19 states.

The NGO section reviews applications and may contact you to ask for more information. Once reviewed, the application is submitted to the committee. The committee meets twice a year. During the session the committee may ask you questions about your application. These will be faxed to you and you should reply immediately in order to avoid the committee deciding to defer the application to the next session. NGOs have the right to be present when their application is being considered. Most NGOs do not attend the first time their application is considered but if the application is deferred, they may decide to attend the next session to be able to reply to questions in person and to avoid further deferrals.

The committee makes a recommendation to the ECOSOC, which has to approve it before consultative status is granted. After the committee makes its recommendation and after the final ECOSOC decision, you will receive official notification.

All NGOs with General and Special consultative status must submit a report on their activities every four years. Organizations with Roster status do not have to report. For more information on applying for ECOSOC status see: <http://www.un.org/esa/coordination/ngo>.

6.3 Model communications form for treaty bodies⁴⁵

For communications under UN human rights treaties

Name of treaty: Date:

I. Information on the complainant:

Name: First name(s):

Nationality: Date and place of birth:

Address for correspondence on this complaint:

Submitting the communication:

on the author's own behalf: on behalf of another person:

(If the complaint is being submitted on behalf of another person): please provide the following personal details of that other person:

Name: First name(s):

Nationality: Date and place of birth:

Address or current whereabouts:

If you are acting with the knowledge and consent of that person, please provide that person's authorization for you to bring this complaint:

Or

If you are not so authorized, please explain the nature of your relationship with that person:

and detail why you consider it appropriate to bring this complaint on his or her behalf:

II. State concerned/Articles violated

Name of the state that is either a party to the Optional Protocol or has made the relevant Declaration:

Articles of the Covenant or Convention alleged to have been violated:

III. Exhaustion of domestic remedies/Application to other international procedures

Steps taken by or on behalf of the alleged victims to obtain redress within the state concerned for the alleged violation – detail which procedures have been pursued, including recourse to the courts and other public authorities, which claims you have made, at which times, and with which outcomes:

If you have not exhausted these remedies on the basis that their application would be unduly prolonged, that they would not be effective, that they are not available to you, or for any other reason, please explain your reasons in detail:

Have you submitted the same matter for examination under another procedure of international investigation or settlement (e.g. the Inter-American Commission on Human Rights, the European Court of Human Rights, or the African Commission on Human and Peoples' Rights)?:

If so, detail which procedure(s) have been, or are being, pursued, which claims you have made, at which times, and with which outcomes:

IV. Facts of the complaint

Detail, in chronological order, the facts and circumstances of the alleged violations. Include all matters which may be relevant to the assessment and consideration of your particular case. Please explain how you consider that the facts and circumstances described violate your rights:

Author's signature:

(The blanks under the various sections of this model communication simply indicate where your responses are required. You should take as much space as you need to set out your responses.)

V. Checklist of supporting documentation (copies, not originals, to be enclosed with your complaint):

- Written authorization to act (if you are bringing the complaint on behalf of another person and are not otherwise justifying the absence of specific authorization):
- Decisions of domestic courts and authorities on your claim (a copy of the relevant national legislation is also helpful):
- Complaints to and decisions by any other procedure of international investigation or settlement:
- Any documentation or other corroborating evidence you possess that substantiates your description in Part IV of the facts of your claim and/or your argument that the facts described amount to a violation of your rights:

If you do not enclose this information and it needs to be sought specifically from you, or if accompanying documentation is not provided in the working languages of the secretariat, the consideration of your complaint may be delayed.

6.4 Guidelines for interventions at United Nations meetings

These guidelines give the basic principles common to NGO interventions at UN meetings; however, you should check the rules for the specific meeting you are attending.

Writing your intervention

Your intervention must be written and given in one of the six UN languages – Arabic, Chinese, English, French, Russian or Spanish.

The allotted speaking time depends on the meeting; however, no matter the official limit, a short intervention that makes clear, concise recommendations is more likely to be listened to. A rambling intervention with a detailed description of events will send people to sleep, even if you are describing a shocking situation. Practice reading your intervention out loud, slowly, to make sure it is within the time limit. If it is too long, do not just speak faster! You should find a way to make it shorter because if you speak too quickly, people might not be able to understand. If the translators cannot follow you, then a large proportion of the people in the room will not be able to understand and your intervention will be wasted.

Generally, you can make one intervention under each of the agenda items, up to a maximum number over the whole meeting. It is possible to make joint interventions with other NGOs, if you have similar issues to raise. Having a number of NGOs making a joint intervention can add weight to the argument. Make sure that your intervention relates closely to the topic of the agenda item.

Start by thanking the chair of the meeting for giving you the floor. Say: 'I speak on behalf of ...' and name your NGO and the country you are from. Introduce the issue or theme you are going to talk about. Remember that other people may not know much about the situation, so you should briefly give background information and clearly define any names or other terms that are specific to the issue in your intervention.

Explain the issue you are concerned with clearly and logically, using facts and concrete examples to support what you are saying. Avoid using highly emotional or political language. Your intervention will be more effective if you use controlled language to emphasize the seriousness of the situation and support your claims with credible information. Unfortunately, the people at UN meetings hear shocking stories of violations and abuses all the time, and become quite immune to them. Their reaction to an outraged description of horrific violations is usually: 'Oh no, not again', and they may switch off their attention. This may come as a big shock to minority representatives, many of who have experienced these events first-

hand, and for whom they have a keen emotional reality. But this is the reality of the UN, and if you want your intervention to be heard and to lead to change, you need to phrase it in a way that will keep everyone's attention.

States sometimes reply to NGO statements and these replies often consist of denying the NGO claims and attacking the sources of information used by the NGO; therefore you should use reliable sources of information and be very clear about where you got your information.

But, having said that, be careful not to quote lots of statistics. Use one or two statistics if they clearly show your arguments; however, people will not be able to follow you, or their attention will wander, if you list lots of statistics. If you think a lot of statistics are important, you can put them in footnotes so people who get a copy of your intervention can read them even if you do not read them out. You can also say in your intervention that you have the information available for anyone who wishes to see it.

Use language that empowers your community. Avoid saying: 'In my country minorities have no rights' or 'The government has taken away all of our rights'. Rights can be violated, but they cannot be taken away. In some situations, they are all you have. They represent a symbolic strength, in that they give you the morally superior position, but they may also represent real strength, if an external actor is willing to intervene to protect your rights.

Further, saying: 'We have no rights' pushes you further into the role of the victim, and may reinforce the government's attitude that it can do what it wants, because you are weak. Psychologically, it can have a negative effect on the willingness of your potential allies to help, because people prefer to help those who have taken a strong, principled stand against violations. It is much better to use language such as: 'the government of my country is violating our right to ...'. In this way you emphasize your strength (your rights) and the government's weakness (its illegal and immoral behaviour, in failing to respect the obligations it signed up to).

You should link the issue or theme of your intervention to relevant human rights law. This could be the UNDM or other UN human rights treaties or Declarations, or regional treaties. (In the case of a treaty, make sure that you check that your government has ratified it; Declarations, while not legally binding, apply to all states.) However, you should mention only the most important Articles or treaties and specifically say how they relate to your topic, rather than just listing lots of Article numbers or treaties. You could include your country's Constitution or national laws relevant to the issue. You could also mention what other UN bodies or experts have said about the subject. For example, if an SR has mentioned the issue in a report, it could be useful to say so.

All this strengthens your intervention and adds to your argument. It is more difficult for governments to deny your claims if you can clearly show violations of international human rights law.

Your intervention should conclude with constructive recommendations for what action you would like to see happen. Think carefully about the recommendations you make, they are very important. They should be concrete and precise; try to avoid general recommendations, such as: 'The government should respect the rights of minorities.' Be precise, outline the exact steps the government needs to take. You can make recommendations to the specific UN meeting you are addressing, to your government, to other governments, to other UN bodies and agencies, and to the international community.

Delivering your intervention

There is a 'speakers desk' with a list of speakers for each agenda item. You need to register to speak by adding the name of your NGO to the list under the appropriate item.

Give the requested number of copies of your intervention to the secretariat. These are for the interpreters and also for the secretariat to consult when they write the report of the meeting.

The chair calls out names in the order on the speakers list. You must be in the room. If the chair calls your name and you are not there, you will lose your opportunity to speak under that agenda item. When you hear your name, raise your hand to indicate your presence. Your microphone will then be switched on. Do not start speaking until the chair indicates.

Read your intervention slowly and clearly. Avoid the temptation to speak quickly so that you can say more within the time limit. Also be aware that if you are nervous, you will probably speak faster than usual. If you speak too fast, people will not be able to concentrate on what you are saying and the interpreters will not be able to keep up. Keep within the time limit. If your intervention is too long the chair may ask you to stop.

After you finish your intervention you may be asked for copies. You should have at least 20 copies available for distribution to anyone interested, and you may want to make sure that your government representative gets a copy either before or after you speak.

In order for your intervention to have the most impact, you should turn it into a press release for the media in your country and contact some of the journalists based in Geneva.

6.5 Special procedures of the Commission on Human Rights⁴⁶

Working Groups of the Commission on Human Rights

Working Group	Included in mandate
Working Group on a draft declaration on the rights of indigenous peoples	
Working Group on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights	
Working Group on arbitrary detention	Communications* Country visits
Working Group on enforced or involuntary disappearances	Communications*
Working Group on the right to development	
Working Group on situations	Communications (1503 Procedure)
Working Group of experts on people of African descent	
Working Group on the effective implementation of the Durban declaration and programme of action	

NOTE: * HAS ISSUED GUIDELINES FOR THE SUBMISSION OF COMMUNICATIONS. FOR MORE INFORMATION ON WORKING GROUPS, SEE: [HTTP://WWW.UNHCHR.CH/HTML/MENU2/2/CHRWG.HTM](http://www.unhchr.ch/html/menu2/2/chrwg.htm)

Countries which are the focus of a Special Rapporteur/Special Representative/Independent Expert

- Afghanistan • Belarus • Burundi • Cambodia • Chad • Cuba • Democratic Republic of Congo • Democratic People's Republic of Korea • Haiti • Liberia • Myanmar/Burma • Palestinian territories occupied since 1967 • Somalia • Sudan • Uzbekistan

Thematic procedures

Mandate name	Name and country of origin of current mandate holder	Included in mandate
Special Rapporteur on the sale of children, child prostitution and child pornography	Mr Juan Miguel Petit (Uruguay)	Communications* Country visits
Independent Expert on the right to development	Mr Arjun Sengupta (India)	
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health	Mr Paul Hunt (New Zealand)	
Special Rapporteur on the right to education	Ms Katarina Tomaševski (Croatia)	Country visits
Special Rapporteur on extrajudicial, summary or arbitrary executions	Ms Asma Jahangir (Pakistan)	Communications* Country visits
Special Rapporteur on the right to food	Mr Jean Ziegler (Switzerland)	Communications Country visits
Special Representative of the Secretary-General on the situation of human rights defenders	Ms Hina Jilani (Pakistan)	Communications* Country visits
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living	Mr Miloon Kothari (India)	Country visits Communications (with other mandates)
Special Rapporteur on the human rights and fundamental freedoms of indigenous people	Mr Rodolfo Stavenhagen (Mexico)	Communications Country visits
Special Rapporteur on the independence of judges and lawyers	Mr Leandro Despouy (Argentina)	Communications Country visits
Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression	Mr Ambeyi Ligabo (Kenya)	Communications* Country visits
Special Rapporteur on freedom of religion or belief	Mr Abdelfattah Amor (Tunisia)	Communications Country visits
Special Representative of the Secretary-General on internally displaced persons	Mr Francis Deng (Sudan)	Communications Country visits
Special Rapporteur on use of mercenaries as a means of impeding the exercise of the right of peoples to self-determination	Mr Enrique Bernales Ballesteros (Peru)	Country visits
Special Rapporteur on the human rights of migrants	Ms Gabriela Rodriguez (Costa Rica)	Communications Country visits
Independent Expert on human rights and extreme poverty	Ms Anne-Marie Lizin (Belgium)	Country visits
Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance	Mr Doudou Diene (Senegal)	Communications Country visits
Independent Expert on structural adjustment policies and foreign debt	Mr Bernards Andrew Nyamwaya Mudho (Kenya)	Country visits
Special Rapporteur on torture	Mr Theo van Boven (Netherlands)	Communications* Country visits
Special Rapporteur on the adverse effects of the illicit movement and dumping of toxic and dangerous products and wastes on the enjoyment of human rights	Ms Fatima Zohra Ouhachi-Vesely (Algeria)	Communications Country visits
Special Rapporteur on violence against women, its causes and consequences	Ms Yakin Erturk (Turkey)	Communications* Country visits
Special Rapporteur on trafficking in persons, especially in women and children	New mandate, person not yet appointed	Communications
Independent Expert on protection of human rights and fundamental freedoms while countering terrorism	New mandate, person not yet appointed	
Independent Expert to update the set of principles for the protection and promotion of human rights through action to combat impunity	New mandate, person not yet appointed	

NOTE: * HAS ISSUED GUIDELINES FOR THE SUBMISSION OF COMMUNICATIONS.

Notes

- 1 For detailed information on the ILO, see Roy, C. and Kaye, M., *The International Labour Organization: A Handbook for Minorities and Indigenous Peoples*, London, MRG, 2002; for information on European legislation see, Barnes, C. and Olsthoorn, M., *The Framework Convention for the Protection of National Minorities: A Guide for Non-Governmental Organizations*, London, MRG, 1999, see: <http://www.minorityrights.org>.
- 2 UN press release SG/SM/9126/Rev.1, 11/02/2004.
- 3 Article 18, Vienna Convention Law of Treaties, 1969.
- 4 Resolution 217 C (III) of 10 December 1948.
- 5 UN agencies have other relevant instruments that may be of interest, including: ILO Convention (No. 111) concerning Discrimination in respect of Employment and Occupation, ILO Convention (No. 169) concerning Indigenous and Tribal Peoples in Independent Countries and the UNESCO Convention Against Discrimination in Education. Also: UN Convention on the Status of Stateless Persons, UN Convention on the Prevention and Punishment of the Crime of Genocide, UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief.
- 6 Article 1, ICERD.
- 7 With the exception of the ICESCR, all the committees were established by the treaty. The CESCR was established by an ECOSOC Resolution and is therefore a subsidiary of ECOSOC.
- 8 For detailed information on the monitoring of ICERD see: Tanaka, A. with Yoshinobu, N., *The International Convention on the Elimination of All Forms of Racial Discrimination: A Guide for NGOs*, London, MRG and IMADR, 2001, available at: <http://www.minorityrights.org>. For guidelines on NGO shadow reports to the CRC, see: NGO Group for the Convention on the Rights of the Child, *A Guide for Non-Governmental Organizations Reporting to the Committee on the Rights of the Child*, 1998, available at: <http://www.crin.org/docs/resources/publications/NGOCRC/NGOCRC-Guide-en.pdf>
- 9 The committee secretariat can provide more information about the procedures that the committee follows. See also the comparison of working methods at: <http://www.bayefsky.com/getfile.php/id/9232>.
- 10 UN Doc. CCPR/CO/78/SVK.
- 11 See, UN Doc. CERD/C/64/CO/2.
- 12 Ethiopia, UN Doc. CEDAW/C/2004/II/CRP.3/Add.7/Rev.1, and Nepal, UN Doc. CEDAW/C/2004/II/CRP.3/Rev.1.
- 13 UN Doc. E/C.12/1/Add.94.
- 14 For texts, see: *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, in UN document HRI/GEN/1/Rev. 6. Available from the OHCHR website: <http://www.unhchr.ch>.
- 15 *Ibid.*, pp. 158–61.
- 16 This was taken as the basis for the 1992 UNDM.
- 17 Alfredsson, G., 'Different forms of and claims to the right of self-determination', in D. Clarke and R. Williamson (eds), *Self-Determination: International Perspectives*, Macmillan Press and St Martin's Press, 1996, pp. 58–86.
- 18 UN document HRI/GEN/1/Rev.6, p. 148.
- 19 See section 2 for more details.
- 20 Article 25 of the ICCPR provides an exception inasmuch as only citizens are entitled to vote and run for office in elections.
- 21 UN Doc. HRI/GEN/1/Rev.6, p. 156.
- 22 *Ibid.*, p. 133.
- 23 *Ibid.*, pp. 203–4.
- 24 *Ibid.*, p. 202.
- 25 *Ibid.*, pp. 204–5.
- 26 *Ibid.*, pp. 214–15.
- 27 *Ibid.*, pp. 216–21. For more information on thematic discussions, see section 6.
- 28 *Ibid.*, pp. 223–9.
- 29 *Ibid.*, pp. 45–9.
- 30 *Ibid.*, pp. 70–85.
- 31 The CESCR in General Comment no. 3 on Article 2 said that: 'a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party'.
- 32 *Ibid.*, pp. 85–105.
- 33 *Ibid.*, pp. 105–22.
- 34 Committees will consider domestic remedies to be exhausted if they are not available or if there has been an unreasonable delay in proceedings. This is to stop states from keeping a case pending for years without dealing with it.
- 35 Dante Piandiong *et al.* v. The Philippines, CCPR/C/70/D/869/1999.
- 36 MRG internal document, 2002.
- 37 For more information on special procedures, see: The Law Society and Amnesty International, *The United Nations Thematic Mechanisms 2002: An Overview of their Work and Mandates*, 2002, available at: <http://www.amnesty.org>.
- 38 UN press release, 24 March 2003.
- 39 MRG press release, 14 October 2003.
- 40 See, UN. Doc. E/CN.4/2003/9.
- 41 States pay into voluntary funds that are used to facilitate participation of NGOs in the work of the UN. There is a voluntary fund for indigenous populations that facilitates the attendance of indigenous representatives at meetings such as the Working Group on Indigenous Populations and the Permanent Forum on Indigenous Issues. For more information on SRs generally, see section 4.2 and on a possible mechanism on minorities see section 1.
- 42 UN Doc. E/CN.4/Sub.2/AC.5/2001/2.
- 43 The full report of the Mauritius visit can be found in document E/CN.4/Sub.2/AC.5/2002/2 on the OHCHR website. The full report of the visit to Finland will be available at the 56th Session of the Sub-Commission.
- 44 Note: contact details are liable to change, please check before sending your documents, etc.
- 45 Source: UN fact sheet no. 7, <http://www.unhchr.ch/html/menu6/2/annex2.pdf>.
- 46 As at April 2004.

Getting involved

MRG relies on the generous support of institutions and individuals to further our work. All donations received contribute directly to our projects with minorities and indigenous peoples.

One valuable way to support us is to subscribe to our report series. Subscribers receive regular MRG reports and our annual review. We also have over 100 titles which can be purchased from our publications catalogue. In addition, MRG publications are available to minority and indigenous peoples' organizations through our library scheme.

MRG's unique publications provide well-researched, accurate and impartial information on minority and indigenous peoples' rights worldwide. We offer critical analysis and new perspectives on international issues. Our specialist training materials include essential guides for NGOs and others on international human rights instruments, and on accessing international bodies. Many MRG publications have been translated into several languages.

If you would like to know more about MRG, how to support us and how to work with us, please visit our website www.minorityrights.org, or contact our London office.

Further reading from MRG

International Labour Organization: A Handbook for Minorities and Indigenous Peoples

Chandra Roy and Mike Kaye

Describes the instruments and mechanisms of the International Labour Organization and how they can be accessed in relation to issues including discrimination, migrant workers, child labour and indigenous rights.

2002 ISBN 1 897693 39 7, 52pp, £5.95/US\$10.95

Public Participation and Minorities

Yash Ghai

Describes the range of devices that can be used to provide for participation, and discusses experiences of constitutional and political provision for minorities and indigenous peoples.

2001 ISBN 1 897693 88 5, 28pp, £5.95/US\$10.95

working to secure the rights of minorities and indigenous peoples

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rights
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 Raoul Wallenberg Institute
of Human Rights and Humanitarian Law

Minority Rights: A Guide to United Nations Procedures and Institutions

By Gudmundur Alfredsson and Erika Ferrer, as updated and revised by Kathryn Ramsay

This guide explains how the United Nations (UN) works. It aims to demystify the UN's human rights mechanisms, procedures and institutions.

It shows how minorities and minority-based non-governmental organizations (NGOs) can use the UN and its different bodies to promote respect for minority rights. It offers practice advice, case studies and step-by-step guidance to working with the UN;

showing, for example, how NGOs can provide information to the UN, how they can pursue cases and lobby for their issues, and where the best entry points are within the UN's institutions and monitoring mechanisms.

While this guide is aimed at minority-based NGOs, and NGOs working to promote human rights, it will be of interest to anyone wishing to learn more about the UN.

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