Chapter 2
Implementing Human Rights:
An Overview of NGO Strategies
and Available Procedures
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As the preceding chapter indicates, international human rights norms are drawn from a wide range of sources. Whether "hard" or "soft" law, binding or nonbinding, each set of norms and principles contributes to the evolving definition of international human rights.

The chapters which follow describe in detail the many mechanisms available to promote, monitor, and enforce human rights law, ranging from the national to the global. Some of these mechanisms are concerned with specific categories of rights; others are limited geographically. The present chapter addresses some of the considerations that should go into selecting which procedure or procedures to use under various circumstances. It also discusses some political or tactical concerns of which human rights advocates should be aware.

NGO Mandates and Strategies

Nongovernmental organizations (NGOs) may be found in all regions of the world. They range from truly mass-based international organizations, such as Amnesty International, which has 1.5 million members, donors, and supporters in over 150 countries, to one-person offices created to monitor the human rights situation in a single country. While many human rights lawyers and other activists provide services to victims on an individual basis, most tend to work in cooperation with one or more NGOs.

The goals or mandates of NGOs range across the entire spectrum of internationally recognized human rights. An NGO's definition of its primary aims will have a profound impact in determining which procedures it may be in the NGO's interest to invoke.

The first significant distinction among NGOs is their substantive focus: is an NGO's mandate general and universal, or is it limited either...
geographically or substantially. Many well-known NGOs have found it
therefore infeasible to focus on only a narrow range of human rights, in order
to develop greater expertise or to address more effectively those rights
which it may seem to be the most important. For example, Amnesty
International began as an organization concerned with rights of political
integrity, including protection against physical or treatment, arbitrary
detention, and unfair trials; the mandate of Defense for Children
International is clearly expressed in its name; the London-based group,
Article 19, takes its name from Article 19 of the Universal
Declaration of Human Rights and is concerned with freedom of expression. Other
NGOs—such as Human Rights Watch, International Commission of
Human Rights, Global Human Rights (formerly the International Human
Rights Law Group), Human Rights First (formerly the Lawyers Committee
for Human Rights), the Fédération Internationale des Droits de l’Homme,
and today’s Amnesty International—choose not to limit their substantial
concerns and take up issues spanning all of the rights in the Uni-
versal Declaration and other international instruments.

Many NGOs were created to respond to a specific concern or to the
situation in a particular country. Others have adopted a regional focus,
seeking to maximize available expertise (including linguistic, ability) or
utilize existing regional mechanisms for the protection of human rights.
Such NGOs obviously do not need to concern themselves with regional
institutions outside the area of their concern, although UN or other
regional mechanisms may be useful.

Perhaps every human rights NGO in the world, even the largest, is
understaffed and underfunded, and each must make almost daily deci-
sions as to which violations it can address and which it must ignore
because of limited time and resources. Such decisions are often strate-
gic rather than ideological, and one of the most difficult tasks faced by
the governing boards and staffs of NGOs is to develop criteria which can
help determine which issues can and should be addressed. Should indi-
vidual cases be given priority over more general human rights concerns?
Should a kind of "triage" be exercised, pursuant to which only those
cases in which there is the greatest chance that NGO action will have
real impact are accepted? Should more "serious" cases be dealt with,
before less vital ones? Can choices be based on distinctions among cat-
egories of rights as civil and political, rights on the one hand, and
economic, social, and cultural rights, on the other? Should larger soci-
etal issues which may encourage human rights violations be addressed,
such as the unequal distribution of wealth, or should an NGO restrict
itself to the violations which result from such situations?

It is almost impossible to adopt a clear policy which responds to these
questions in every instance, and even NGOs and themselves addressing
many different kinds of violations, each requiring different tactics, at the same time. Individual cases are often urgent, and they serve as powerful illustrations of the existence of larger human rights problems. One cannot readily judge the chances for success in every instance, and it is often those cases which seem most hopeless that are the most compelling. In many instances, the limited amount of information available, linguistic competence, and financial resources may prevent an NGO from taking up even a deserving case in a thorough manner; although some response to urgent appeals will almost always be forthcoming.

As noted later in this chapter, it is essential for a human rights NGO both to be and to appear to be nonpartisan and nonideological. When an NGO deals with situations in a wide number of countries, decisions regarding future initiatives should include consideration of the geopolitical or cultural balance reflected in the NGO's work as a whole. For example, an NGO which purports to monitor compliance with the minority rights norms adopted by the Organization for Security and Cooperation in Europe should not focus only on Eastern Europe; an organization concerned with religious intolerance might well to examine the situations in China and Israel, for example, as well as that in Saudi Arabia. An NGO might decide to investigate North Korea or Tajikistan precisely because information about such countries is difficult to obtain, and, as a result, the country may have received disproportionately less attention from human rights bodies than is warranted.

Such considerations might seem overly Machiavellian, but they are part of the real world of daily NGO activities. Most NGOs do not have the leisure to examine such questions in the abstract—appeals for help arrive daily, and decisions as to the kind and degree of activity that can be undertaken must be made relatively quickly—but they should not allow their actions to be determined simply by what appeal arrives first. International human rights law is directed to states and governments; they have the responsibility to ensure that rights are protected from violation either by government officials or by private individuals acting with the acquiescence or complicity of governments. However, the activities of armed opposition groups in a number of countries have given rise to accusations of "human rights violations" being directed against these nongovernmental actors, as well as against governments.

Without entering fully into the debate, it should be noted that many advocates believe that their concern is only with the action (or inaction) of governments; killings and other abuses by nongovernmental forces are crimes under domestic law and should be treated as such. Other groups, particularly when dealing with situations in which violent conflicts are longstanding (e.g., Sudan, Sri Lanka, Colombia) choose to address "human rights violations" by guerrillas in at least a summary fash-
ion. In such situations, the humanitarian law of armed conflict is obvi-
ously relevant, although the precise scope of its application often may
be confounding.

An NGO generally should not ignore the existence of a conflict
entirely, if only because some conflicts may justify derogations from or
limitations on rights that would otherwise be impermissible. At the same
time, however, human rights law is distinct from the law relating to
armed conflict, and one must be careful to utilize the legal arguments
which are most protective of individual rights in the particular circum-
stances. Similar considerations apply to the often complex situations of
refugees or displaced persons, although one must remember that such,
too, have the right to be protected from human rights violations.

As international criminal law takes firmer hold, many NGOs have
begun to advocate criminal liability for "human rights crimes," particu-
larly in transitional situations where repressive or despotic regimes
have been replaced by arguably more rights-respecting governments.
International or mixed tribunals have been established to address inter-
national crimes in the former Yugoslavia, Rwanda, Cambodia, Sierra
Leone, and Liberia, and a new International Criminal Court was
created in 2002. Again, however, one should distinguish between a
human rights violation and an international crime—each is defined in
different instruments, and most human rights violations do not consti-
tute crimes.

Finally, some NGOs have become increasingly active in promoting
human rights through assistance and educational programs, rather than
just responding to violations. Such activities are often particularly impor-
tant in "transitional" states, where respecting human rights and estab-
lishing a meaningful rule of law are essential to long-term stability and
democratization.

Questions of mandate and long-term strategy arise most frequently in
the early stages of an NGO's existence, although they may usefully be
reviewed every few years. Even the most well-established NGOs need to
reassess fact-finding and other tactics on the basis of experience, and
mandates may be expanded or restricted depending on the changing
nature of human rights violations in the world. Some of these issues are
addressed in greater detail in the works on NGOs listed in the bibliographic
Essay in Appendix A.

Domestic Activities

Reducing Human Rights Violations in One's Own Country

If there has not been a wholesale breakdown in the rule of law in a coun-
try, there are a number of domestic initiatives that an NGO can under-
take to promote human rights generally or to change national policies which appear to conflict with international norms.

The invocation of formal legal procedures, such as habeas corpus or amparo proceedings or civil suits to challenge government acts, is an obvious first step which should not be ignored (at least where there is a regularly functioning judicial system). As discussed in chapter 15, there also may be ways to implement international human rights norms directly through the domestic/national legal system, although this possibility depends on the domestic law of each country.

Nonjudicial administrative appeals also should be attempted, if necessary by challenging the exercise of executive discretion in particular cases. Constitutional and administrative courts often have the authority to redress governmental abuses of power, and they should not be ignored. It may be easier to persuade a government to change its rules and policies where they are perceived to be inconsistent with international human rights norms, before trying to force it to change through litigation.

As often overlooked, but vitally important, avenue of legal and political redress is the legislative branch of government, particularly where the system of government gives the legislature a power base separate from the executive. In the United States, for example, most human rights initiatives originated in the U.S. Congress, and many significant pieces of legislation were adopted over the opposition of the executive branch. Legislation also may be required to reform judicial procedures or comply with a country’s obligations to promote economic and social rights. Legislative hearings and fact-finding investigations provide forums in which human rights violations can be publicized and pressure brought to bear on governments to halt them. The parliamentary immunity enjoyed by legislators in many countries may enable them to speak out more freely, and NGOs often have much closer ties to the legislature than to the executive branch of government. Human rights observance or similar institutions also are frequently responsible to the legislative rather than the executive branch of government.

Urging the government to ratify international treaties concerning human rights can be an effective tool to educate the public about human rights and increase the substantive protections available to a country’s citizens. The international oversight that accompanies most human rights treaties also can provide a useful (if limited) potential check on government actions, as discussed in chapters 5 and 10. While more ratification is no guarantee that a government will take its obligations seriously, international treaty commitments are often important to prevent a government from backsliding on its human rights promises.

The importance of the norm media cannot be overemphasized. While one often thinks of exposing human rights violations in the press,
Domestic Activities Aimed at Promoting Human Rights in Other Countries

Today, both governments and the public view human rights as a legitimate issue of foreign policy, and seeking to influence the foreign policy of one's own country can be one of the most effective means of promoting human rights in another country. Many foreign ministries now have specific bureaus or divisions dedicated to monitoring human rights, and foreign policy pronouncements from governments around the world frequently cite human rights concerns as influencing political decisions.

Few countries have gone as far as the United States, where the administration is required by law to prepare a public annual report on the state of human rights in all countries. However, it should be possible in many countries to provide information informally to a foreign ministry regarding the human rights situation in another country with which there are close economic or political relations. In addition, NGOs should demand that every government pay greater attention to human rights considerations in formulating its foreign policy.
Of course, there is a danger that human rights may become overly politicized if they are too closely intertwined with foreign policy. The United States favored friendly "authoritarian" regimes over Communist "totalitarian" regimes during the Reagan administration; the Soviet Union hypocritically promoted economic and social rights while violating political rights; and many Asian and African governments have excused gross human rights violations by their neighbors by invoking spurious arguments of interference with "sovereignty" or "cultural relativism."

Nevertheless, the mobilization of world public opinion against human rights violators almost necessarily includes influencing the political decisions of governments. So-called "quiet diplomacy," in which a government may privately raise individual cases or larger human rights issues in a bilateral diplomatic setting, can be an important tool. Public expressions of concern over alleged human rights violations may lay the groundwork for a government later to support multilateral initiatives in the United Nations or elsewhere. However, while human rights NGOs should take "political" considerations into account when they make tactical decisions as to which situations are most likely to receive attention at a given time, they must always be conscious of the need to deal with human rights in the most objective, nonpartisan manner possible.

**International Initiatives**

International treaties and human rights bodies have proliferated in the past three decades, and anyone seeking to invoke international human rights procedures is presented with a bewildering array of choices. This section summarizes some of the most significant differences among the various international mechanisms available; the reader should then turn to succeeding chapters for more detailed information on the substantive and procedural requirements of each option.1

**Individual Cases**

Perhaps the most crucial distinction to be kept in mind when surveying available procedures is that between protecting the rights of a particular individual and promoting broader human rights concerns within a particular country. While there is obviously a close relationship between the two in most instances, the international community has developed quite different mechanisms to address each.

Where the concern is, for example, to release an individual from prison, to protect her from torture, to allow a banned newspaper to resume publication, or to secure a family's right to emigrate, the primary motivation must be to secure the rights of the individual victim. In such a context, a human rights advocate or NGO should not worry about
setting precedents, proving the "gulf" of a government, or gaining publicity; unless any of these steps might help the individual concerned.

The danger in focusing exclusively on an individual case is that a government may attempt to "buy off" an NGO by acceding to its demands, at least in part. The bargain may take the form of an early release from detention or permission to leave a country, so long as the NGO ceases its public condemnation or agrees to discuss the problem confidentially. Such a "bargain" may be more insidious, if governments threaten to persecute victims to an even greater extent if international publicity continues.

Under such circumstances, the primary loyalty of an NGO must be to the individual victim. Of course, the victim may reject a proposed bargain, for example, by refusing to recant an unpopular political belief or even refusing release while others remain imprisoned. On the other hand, a victim may understandably choose to accept a government's offer of release, exile, or compensation, even if such a settlement may unwillingly undermine broader efforts to redress human rights violations in a particular country. However, this must be the victim's decision, and an NGO should honor whatever that decision may be.

At the same time, however, an NGO should not hesitate to apprise its individual client of the implications of a particular settlement or offer, particularly if the situation is not life-threatening or where formal legal proceedings have been invoked. The European and inter-American human rights systems require approval of any "friendly settlement" by the appropriate international body, to ensure that it is on the basis of respect for human rights; an NGO can play a similar role in ensuring that a victim is not tricked or coerced by a government.

Exhausting domestic remedies

The requirement that a complainant exhaust all domestic remedies before invoking international procedures is common to nearly every international mechanism discussed in this book. This is not surprising, for a state should be given the first opportunity to redress at least those occasional human rights violations that occur in every country.

This requirement needs to be fulfilled only where the domestic remedies are real, not illusory. Where theoretical remedies are ineffective or inadequate for any reason—such as inordinate delay in judicial proceedings, lack of an independent judiciary, clear judicial precedent which upholds the challenged action, or limits on the judiciary's jurisdiction which prevents the courts from interfering with actions taken by the executive branch—a petitioner need not go through the motions of pursuing useless domestic proceedings.
Not only is exhaustion of domestic remedies normally required before international procedures can be invoked, but, where they do exist, domestic remedies are likely to be faster and more effective than mere political or moral exhortations emanating from an international body. Indeed, when it is possible to separate an individual case from broader complaints about human rights abuses, NGOs should always consider whether a "nonpolitical" domestic approach might be more persuasive in a particular case.

**Humanitarian appeals**

A purely humanitarian approach may be faster and more effective at the international level than an initiative that is accusatory or emphasizes the broader political context in which an individual violation occurs. A humanitarian approach involves direct contact with international bodies, without attempting to fulfill the requirements for a formal petition or communication. The goal is to protect the victim from immediate danger (e.g., torture or execution), without regard to the underlying causes or formal governmental responsibility for a violation of human rights.

The mere fact that an inquiry is instituted by an intergovernmental body may deter a government from physically assaulting, executing, or deporting someone in custody. However, there is no guarantee that this will occur, particularly if the government concerned is a gross violator of human rights. If the appeal is successful in preventing immediate harm, the case can then be continued by initiating a formal application.

There are several mechanisms which can respond to humanitarian appeals:

- The UN High Commissioner for Human Rights has created a "hot line" for reporting urgent human rights violations, which can be used by victims, their relatives, or NGOs. This number also may be used to contact the so-called "thematic" rapporteurs and working groups established by the UN Commission on Human Rights, which are specifically authorized to take "effective action" in response to individual complaints; they should be among the first international entities contacted in urgent cases. These mechanisms cannot investigate or pronounce on violations, but their humanitarian functions have become increasingly accepted; all can be contacted through the Office of the UN High Commissioner for Human Rights in Geneva.

- The secretariats of the Inter-American Commission on Human Rights and the European Court of Human Rights have the authority to request (although not to order) that a government take action to
safeguard the human rights of an individual on whose behalf they have been approached.**

- **Staff members who serve international bodies, such as the Human Rights Committee, UNESCO, and others, may be willing to contact a government informally about urgent situations. Here, much depends on the goodwill and initiative of the individual staff member, as well as the general practice in the office.**

- **Country-specific rapporteurs appointed by the Commission on Human Rights also can be contacted privately, although many governments have refused to cooperate with such rapporteurs, and they tend to have less immediate influence than the thematic rapporteurs. If a rapporteur is about to conduct an on-site investigation in a country or issue a report, however, the government concerned may be much more receptive to appeals from the rapporteur on behalf of a particular individual.**

- **The International Committee of the Red Cross is perhaps the best-known humanitarian organization in the world, but its mandate is quite limited. In situations of armed conflict, however, Red Cross representatives may make confidential approaches to governments to search for missing persons, visit prisons and detention camps, and otherwise seek to alleviate individual suffering and provide information to the families of victims. There are also a number of NGOs whose interests are purely or primarily humanitarian, such as Médecins sans Frontières and Oxfam.**

Humanitarian appeals also can be made by one government to another, in the context of bilateral diplomacy. Particularly when the inquiring government is perceived as having friendly relations with the target government, it may be easier for the latter to take positive action with respect to an individual case than to anger its ally by refusing to cooperate. Even if two countries are not allies, the likelihood of a successful humanitarian appeal may increase if an important state visit is to occur or if a positive response to human rights issues is viewed as contributing to achieving economic or political goals.

**Invoking formal international procedures**

Just as the domestic lawyer's ultimate threat is that "I'll see you in court," the international human rights activist is most likely to invoke formal international procedures as a last resort. While many procedures can and should be invoked at the same time that other avenues of redress are being explored, they should rarely be the first option considered.

In addition to the specific procedural hurdles that must be overcome with respect to each mechanism, all the international procedures share
a serious problem of delay. It is not uncommon for it to take three or four years for a case to be finally decided, although initial hearings and/or decisions on admissibility may be made within a few months to a year or two. While many international bodies have the authority to request a government to take “timely” or “precautionary” measures to prevent irreparable harm from occurring while a complaint is being considered, there is no guarantee that a government will honor such a request. At the same time, it should be recognized that submission of a formal communication and, in particular, its transmission to the government concerned may be an effective tool in itself in encouraging a government to take action. Full consideration of a case may lead to a great deal of publicity and pressure on a government to change its practices, especially when the complaint raises an issue of concern to more people than just the individual petitioner.

Another problem with international procedures is that their decisions are not legally binding on governments, with the exception of judgments rendered by the inter-American and European courts of human rights. Only such judicial forums have the power to order that compensation be paid to victims of human rights violations. The distinction between legally binding judgments and non-binding recommendations does not always have great practical significance, however, and many governments have taken an action recommended by an international body even when the recommendation was not formally binding.

Of course, much depends on whether there is a good supervisory mechanism to follow up on even non-binding recommendations or effective publicity designed to pressure a government to abide by an international decision. The systematic supervision by the International Labor Organization, for example, is more likely to encourage compliance than is the mere issuance of “views” by the Human Rights Committee. The right of an individual to invoke formal international complaint procedures must be specifically accepted by individual states, and the geographical scope of many treaties remains unfortunately limited. All members of the Organization of American States fall within the jurisdiction of the Inter-American Commission on Human Rights, and all parties to the European Convention on Human Rights accept the right of individual petition. As of early 2004, 104 of the 151 parties to the Covenant on Civil and Political Rights had accepted the right of individual petition under the Optional Protocol, but fewer than half of the state parties to the Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and other Forms of Cruel, Inhuman or Degrading Treatment, or American Convention on Human Rights, had accepted the right of individual petition.
Large-Scale Human Rights Violations in a Particular Country

An individual petition should be drawn narrowly and need not necessar-ily impugn widespread government policies. A government which does not feel that its very existence is being challenged may be more willing to respond favorably to a humanitarian appeal or comply with the opinion of an international human rights body, and depoliticizing a complaint is often a worthwhile tactic in individual cases.

This is not true for actions which seek to redress widespread human rights abuses or a consistent practice of violations within a country. Such allegations are inevitably viewed by governments as potentially dangerous, as they call into question the willingness or ability of a government to live up to internationally recognized norms and may even challenge the government’s political legitimacy. Under such circumstances, it is rarely fruitful to depoliticize issues, although NGOs must still guard against appearing to be ideologically motivated.

Of course, where the goal is to overturn a law in a more liberal demo-cratic country, a finding by an international body that the law does, in fact, violate international norms may provide sufficient impetus for the government concerned to amend or repeal the offending legislation. If a state is subject to the biding jurisdiction of the European or inter-American courts of human rights, such a direct international legal challenge may be the most effective way of ensuring compliance with international standards.

But when the goal is to challenge the overall human rights situation in a country on a widespread practice of violations, formal international procedures may be less relevant than they are in an individual case. It may be more effective to increase awareness of the violations and thereby
the mobilize public pressure to end them, through tactics such as publish- ing reports, sending fact-finding missions, and publicizing eyewitness accounts; invoking formal international mechanisms may supplement such direct methods.

One of the goals of mobilizing public opinion is to influence the policies of both foreign governments and international organizations, and international mechanisms offer the possibility of increased visibility and greater credibility for NGO efforts. The fact that a country's human rights situation is even discussed at the international diplomatic level is in itself a form of pressure, and promoting that discussion is a primary goal of much NGO activity.

The most visible action that an international body can take is to initiate an investigation of the human rights situation in a country. This may be followed or accompanied by a formal resolution, whose diplomatic phraseology may range from the relatively benign ("noting" or "expressing concern") to outright condemnation. A country which is the subject of such attention is likely to resist with all the political and diplomatic weapons available to it.

The UN Commission on Human Rights is the most important forum with global jurisdiction that can initiate a country-specific investigation. Lobbying for appointment of a special rapporteur on a country, who will undertake an investigation of the human rights situation and report back to the commission the following year, requires a substantial commitment of time and resources, including physical presence in Geneva during at least part of the Commission's annual session. Many NGOs arrive in Geneva having woefully underestimated the political and practical difficulties which they face in mounting such an initiative, and the coordinated effort of several NGOs is often required for success. In addition, it is helpful if the human rights situation is sufficiently serious to have already acquired a certain notoriety among government representatives on the Commission.

Having the Commission on Human Rights or its Sub-Commission on the Promotion and Protection of Human Rights simply adopt a resolution concerning a specific country may be marginally easier, but geopolitical considerations will play a major role in determining how a country votes. For example, a resolution on human rights in Iraq was adopted by the Commission only after the outbreak of the first Gulf War in 1990-91; the Chinese government successfully opposed adoption of any resolution by the Commission referring to the 1989 massacre in Tian An Mien Square; and the success or failure of U.S. attempts to secure passage of various resolutions on Cuba in the 1990s probably depends more on the general political climate than on careful evaluation of the human rights situation in Cuba. Another alternative is adoption of a "Chairman's statement" on an issue by consensus, which is seen as less
innovative and therefore somewhat more politically feasible than adop-
tion of a formal resolution. Of course, serious public discussion of
human rights in a particular country at the Commission or Sub-Com-
mission may itself create useful political pressure, even if no resolution
is adopted.

A somewhat less onerous challenge is to try to convince the Commissi-
on and Sub-Commission to launch a confidential investigation of “sit-
uations which appear to reveal a consistent pattern of gross violations
of human rights.” This procedure, known as the “1505 procedure” for
the resolution which created it in 1979, is described more fully in chapter
4; while its use requires a substantial effort to gather and present the rel-
levant facts, this should not be beyond the capability of an NGO which
seeks to address massive human rights violations. The entire procedure
is confidential and suffers from other weaknesses, although the usual
public identification by the chairman of the Commission of those coun-
tries under consideration does provide a form of public opprobrium. In
rare instances, the confidentiality of the 1505 procedure may even be an
advantage in dealing with a relatively receptive government which may be
more susceptible to private than to public pressure, since yielding to
confidential diplomatic inquiries is less embarrassing than yielding to
public pressure or condemnation.

The Committee against Torture and the Committee on the Elimination
of All Forms of Discrimination against Women enjoy a somewhat simi-
lar authority to investigate situations which appear to reveal the existence
of a systematic practice of torture or discrimination against women,
respectively. Although their proceedings are confidential, they may
receive information from NGOs or any other reliable source.

At the regional level, the Inter-American Commission on Human
Rights has the most extensive jurisdiction of any international body to
investigate the general human rights situation in a country; on its own
initiative, it may investigate and issue a public report on human rights
violations in any OAS member state. While NGOs have no formal role in
such an investigation, they can play a crucial role both in urging that an
investigation be undertaken and in providing information. The Commis-
sion’s public reports on the human rights situation in specific coun-
tries have had significant political impact, and any NGO concerned
with human rights in the Western Hemisphere should consider the possi-
bility of encouraging an IACHR investigation.

Although its consideration of individual cases has only begun recently,
the African Commission on Human and People’s Rights has the theo-
retical authority to draw the attention of the Organization of African
Union’s Assembly of Heads of State and Government to allegations of
“serious and massive violation,” which the Assembly may then request
the Commission to investigate. Unfortunately, it is not clear whether this procedure has yet been utilized.

While the Inter-American Commission on Human Rights and the UN Commission on Human Rights have issued reports on a large number of countries, such international investigations remain relatively rare. As noted above, perhaps the next most ambitious goal with respect to human rights violations in a country is the adoption of a resolution by a UN body. No matter how mild the language, any specific reference to a country by name should be viewed as a success. Country-specific resolutions also facilitate continuing consideration of the situation in subsequent sessions and in other UN bodies.

Chapter 4 discusses NGO interventions at the United Nations, most of which are relevant to attempts to increase awareness of widespread violations of human rights in a country. While less dramatic, consideration also should be given to critiquing or challenging a government’s view of its own human rights record, when that record is reviewed by an international monitoring body to which a government must submit regular reports. Publishing those government reports, along with NGO commentaries and criticisms, can make a valuable contribution to the ongoing discussion of human rights, utilizing international norms as the reference point.

Finally, it should be remembered that there are a few political bodies dedicated to monitoring human rights in specific countries or circumstances, although their number has decreased since the achievement of majority rule in South Africa in the mid-1990s. Access to these bodies is relatively easy, so long as the NGO or individual has information which is directly relevant. At present, they include the General Assembly’s Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories and the “Committee of 24” on the Granting of Independence to Colonial Countries.

Concerns Over Specific Rights

Some NGOs are created to promote specific human rights, and others may begin to focus their substantive concerns as their expertise develops in a particular area. The methods appropriate to such promotional work may be different from those that seek primarily to halt violations, as the concern is not only with implementing existing norms but also with creating new standards.

NGOs often need to adopt a longer-term strategy in order to convince the international community that a particular issue deserves special attention. While it is not the only scenario, this process is exemplified by the
approach of Amnesty International (AI) to the issue of torture in the 1970s and 1980s.

As it became more expert in the situation of "prisoners of conscience," AI realized that the torture and other ill-treatment of detainees was a serious and apparently increasing problem. In 1972, AI launched a worldwide "Campaign against Torture" that sought to educate diplomats, politicians, and the general public about the prevalence of torture in the world and to reinforce the absolute rejection of the use of torture under any circumstances. In 1975, prodded and lobbied by AI (with the support of sympathetic states), the UN Congress on the Prevention of Crime and Treatment of Offenders and subsequently the UN General Assembly adopted declarations condemning torture and other cruel, inhuman, and degrading treatment or punishment. Intensive work on drafting and lobbying led to the adoption of a Convention against Torture in 1984, monitored by an expert Committee against Torture. To ensure that no country could escape scrutiny merely by failing to ratify the Torture Convention, AI and others also successfully lobbied for the appointment of a Special Rapporteur on Torture by the UN Commission on Human Rights in 1985.

AI's concern with torture led to related initiatives concerning, inter alia, detention without trial; the protection of human rights during states of emergency; procedures for the investigation of summary or arbitrary executions; and guidelines for the actions of law enforcement officials, doctors, lawyers, and judges. While focusing on the development of new standards, AI was able to draw attention to violations of existing standards by way of illustration. Thus, what might rightly be seen as merely theoretical legal debates or drafting exercises in fact reinforced AI's work in combating specific violations.

Similar successful initiatives have been undertaken by other NGOs. The International Committee of Jurists began in the 1980s to devote particular attention to interference with the independence of judges and lawyers. The General Assembly endorsed a set of Basic Principles on the Independence of the Judiciary in 1985, and a Commission Rapporteur on the subject was appointed in 1994. A number of NGOs played an influential role in the drafting and adoption of the Convention on the Rights of the Child in 1989; it is now the most widely ratified international human rights treaty. An informal coalition of NGOs pressed the Commission on Human Rights for years to adopt a declaration on the protection of human rights defenders, which the Commission finally did in 1998. An effort by a similar coalition of NGOs to gain approval for a treaty on the rights of people with disabilities appears to be close to success.
The 1995 Beijing Conference on Women was both a capstone to efforts by NGOs to draw greater attention to women’s human rights issues and an impetus for greater international cooperation and coordination on women’s issues. A Commission Rapporteur on Violence against Women was appointed in 1994, and NGOs that focus on women’s rights have become more active at meetings of the Commission on the Status of Women and the Committee on the Elimination of All Forms of Discrimination against Women.

Finally, mention should be made of two highly political, global efforts to adopt new international norms in the 1990s in which both traditional “human rights” NGOs and a large number of single-issue organizations participated. Primarily through pressuring their own governments in a coordinated manner, as well as raising global awareness, ad hoc NGO coalitions succeeded in pressuring governments to adopt a treaty banning land mines in 1997 and, in 1998, the statute that led to creation of the International Criminal Court in 2002. NGO representatives participated actively in the intergovernmental conferences that adopted the treaties; during the latter meeting, NGOs provided formal advice to some government delegations.

A key element in ensuring that new standards are not merely empty documents is the creation of some form of monitoring mechanism, even if its powers are only advisory. While their specific powers vary considerably, international forums do now exist for discussion of the human rights of racial and ethnic groups; women; children; migrant workers; indigenous peoples; minorities; and the victims of torture, arbitrary killings, disappearances, slavery-like practices, and religious intolerance. Many of these bodies can be of help in drawing attention to specific violations of human rights or issue-oriented campaigns, even if they are not technically competent to consider complaints formally.

The Human Rights Campaign: Using Procedures Simultaneously

Rarely does an NGO adopt only a single course of action when combating a particular human rights violation, unless an effective procedure is available to deal with an isolated individual case. In most instances, the goal is to resolve a problem, and thus goal may be promoted through a variety of means.

Bearing in mind that limited resources will generally not permit all options to be undertaken in every case, an NGO might consider adopting a number of the following actions to address a serious human rights concern:
send letters to the country in which the violations are taking place, to the appropriate foreign ministry department in one's own country, and to other countries that enjoy friendly relations with the target country, requesting the resolution of specific aspects of the situation and a commitment to undertake at least private diplomatic initiatives;

- ensure that any available domestic remedies are engaged;
- contact the media with information regarding the human rights violations that have occurred or are threatened;
- contact any rapporteur or body that might be able to take "urgent action" to resolve the situation on a humanitarian basis;
- file a formal individual complaint under the relevant treaty;
- issue a report on the human rights situation in question, based on an on-site investigation or, where that is not feasible, on other means of facts-finding;
- file a communication alleging the existence of a "consistent pattern" of violations under the 1903 procedure;
- promote public discussion of the violations in UN forums, including, if feasible, calls for a country-specific rapporteur or adoption of an appropriate resolution;
- publicize all (or most) of the above, bearing in mind rules of confidentiality where relevant.

In general, one can safely utilize most international procedures simultaneously, although care should be given to the particular requirements of each. For example, an individual complaint may be filed under the Optional Protocol to the Covenant on Civil and Political Rights and used at the same time to illustrate a "consistent pattern" under the 1903 procedure, as the latter procedure cannot determine the rights of any specific victim. On the other hand, the Human Rights Committee may not consider a complaint if it is being simultaneously considered under another international procedure, for example, by the European Court of Human Rights.

Tactical considerations also may dictate that not every conceivable forum be engaged at once or in every possible manner. International bodies do have a sense of proportion, and they are unlikely to respond positively if they are bombarded with information about a situation that clearly is less compelling than others of which they are aware.

One should remember that significant differences exist between domestic human rights forums and international forums. In many respects, international implementation and supervision are still rudimentary, even if substantive norms are fairly well developed; at the national level, on the other hand, well-developed, independent judicial
systems and rules may exist. At the national level, legal factors may prevail, whereas political factors often dominate in international intergovernmental forums.

As a result of these and other differences, certain methods and techniques that may be relevant to a domestic judicial or administrative process are less likely to be as useful within the UN system. One example is the role of precedent, which is very important in the Anglo-American and many other domestic judicial systems. Within the United Nations, however, it should not be automatically assumed that procedures adopted to investigate the human rights situation in Chile, for example, will necessarily serve as a model or precedent for other countries where a military coup occurs and gross violations of human rights ensue. On the other hand, precedent is more likely to play a role in the deliberations of, for example, the Human Rights Committee and the European Court of Human Rights, with respect to legal issues which arise in individual cases.

The fact that intergovernmental institutions are ultimately political may render less meaningful other elements common to the domestic legal process, such as the force of logical argument or the conclusive character of evidence determined by a fact-finding body. But even if sound legal argument or well-proven facts may yield to political considerations, the value of well-prepared, nonideological submissions by NGOs should not be underestimated.

**Competence and Professionalism**

The primary influence of NGOs and human rights activists comes through the mobilization of public and governmental opinion, except in those relatively rare instances when a formal international legal mechanism may be invoked. The success of this mobilization, in turn, depends on the credibility of the group providing the information. To be credible does not require infallibility, and information should not be withheld in urgent situations simply because it cannot be verified. However, maintaining the credibility of an individual NGO and the human rights movement in general does require competence and professionalism. Objective and thorough fact-finding lies at the heart of human rights work, and it is important for individuals and NGOs to distinguish between facts relevant to human rights and broader political concerns. This does not mean that NGOs should be oblivious to the political context in which they work; it is certainly legitimate, for example, to time the release of a report on human rights in a country or the initiation of legal proceedings to coincide with a legislative debate on economic assistance or the visit of a head of state to the NGO's home country.
However, political issues should be dealt with politically. Allegations of human rights violations must be legitimate in and of themselves and should not be used merely as a means to achieve larger political objectives. Unfortunately, human rights issues are regularly manipulated by all sides to a conflict, as demonstrated by the use and abuse of human rights rhetoric in Central America throughout the 1980s, the former Yugoslavia in the 1990s, and Iraq in 2003. It is legitimate for an NGO to call for the release of detainees, an end to torture, or free and fair elections; it is not legitimate for a human rights NGO to favor one side over another to an election or prefer one economic system to another, unless those preferences are firmly grounded in internationally accepted human rights norms relating to, e.g., political participation or economic rights.

Finally, one must recognize the limits of human rights advocacy—although those limits are increasing being brought into question by the proponents of so-called "humanitarian intervention." The protection of internationally recognized human rights cannot be left to reform society, redistribute wealth, protect the environment, achieve peace, and ensure tolerance—although achieving a democratic, participatory society in which human rights and the rule of law are respected is likely to make these goals more realizable. Law is not a substitute for politics, and there are many choices that societies face that need not and should not be determined by reference to a universal legal standard. Respect for international human rights does not require the obliteration of cultural, economic, and political differences among peoples, although it does mandate the rejection of dictatorship and exploitation.

At the same time, appeals to "cultural relativism" by rights-violating govemments should be rejected as the hypocritical sophistry they so often are. We should remember the 1993 Vienna Declaration of the UN World Conference on Human Rights, which concluded that "[w]hile the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms."

In the past decade, international organizations or self-proclaimed "coalitions of the willing" have intervened in states in various stages of disintegration or conflict. In most of these situations, the protection of human rights has been proclaimed as one of the primary goals of the intervention. While there should be little hesitation in using force to protect large numbers of people from imminent death, such a demanding standard is too far from the loose invocation of "human rights." Human rights advocates must guard against calling too loosely for "action" to be taken against even a gross violator of human rights, lest...