



Canadian Human Rights Foundation  
Fondation canadienne des droits de la personne



European Roma  
Rights Center  
(ERRC)

# Capacity Building for Roma Rights Advocacy

## European Roma Rights Center Summer School

July 5-14, 2004

Budapest, Hungary



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# Table of Contents

<i>Introduction</i> .....	4
<i>Workshop Schedule</i> .....	6
<b>DAY 1: MONDAY, JULY 5</b> .....	<b>7</b>
<b><i>Module 1 Setting the Context</i></b> .....	<b>8</b>
<i>Opening Statements: Executive Director, ERRC</i> .....	9
<i>Activity 1 Welcome and Introductions</i> .....	9
<i>Activity 2 Participants’ Expectations and Resources</i> .....	11
<i>Activity 3 Overview of the Program</i> .....	13
<b><i>Module 2 The Current Situation of Roma Rights in Central and Eastern Europe</i></b> .....	<b>14</b>
<i>Activity 1 Roma Rights Issues in Your Country</i> .....	15
<i>Activity 2 Public Perception Map</i> .....	18
<i>Activity 3 Understanding the Term “Minority”</i> .....	21
<i>Activity 4 Current Roma Rights Issues – Presentation</i> .....	26
<b>DAY 2: TUESDAY, JULY 6</b> .....	<b>27</b>
<i>Activity 5 My Understanding of Human Rights</i> .....	28
<i>Activity 6 Human Rights Principles</i> .....	30
<i>Activity 7 “The King’s Daughter” Case Study</i> .....	34
<i>Activity 8 A Rights-Based Approach</i> .....	41
<b>DAY 3: WEDNESDAY, JULY 7</b> .....	<b>49</b>
<b><i>Module 3 International Standards for the Protection of Roma Rights</i></b> .....	<b>50</b>
<i>Activity 1 International Instruments: Advantages and Limitations</i> .....	51
<i>Activity 2 Overview of International Instruments: Presentation and Discussion</i> .....	54
<i>Activity 3 Working with International Instruments</i> .....	56
<b><i>Module 4 Protection of Roma Rights at the Domestic Level</i></b> .....	<b>61</b>
<i>Activity 1 The EU Race Equality Directive: Presentation</i> .....	62

<b>DAY 4: THURSDAY, JULY 8 .....</b>	<b>63</b>
<i>Activity 2 Anti-Discrimination Legislation within the EU.....</i>	<i>64</i>
<i>Activity 3 Working with Hate Speech Legislation .....</i>	<i>67</i>
<b>Module 5 Debating Human Rights.....</b>	<b>68</b>
<i>Activity 1 Fundamentals of Effective Debating Skills – Presentation and Discussion.....</i>	<i>69</i>
<i>Activity 2 Debate Practice – “Hate Crimes Legislation as a National Provision for Protecting Roma Rights” .....</i>	<i>72</i>
 <b>DAY 5: FRIDAY, JULY 9.....</b>	 <b>80</b>
<b>Module 6 The European Convention on Human Rights.....</b>	<b>81</b>
<i>Activity 1 The European Court: Presentation and Discussion .....</i>	<i>82</i>
<i>Activity 2 The European Court – Working with the European Convention on Human Rights .....</i>	<i>86</i>
<i>Activity 3 Moot Court .....</i>	<i>90</i>
 <b>DAY 6: SATURDAY, JULY 10 .....</b>	 <b>91</b>
<i>Meeting NGOs Working on Roma Rights .....</i>	<i>92</i>
 <b>DAY 7: SUNDAY, JULY 11 .....</b>	 <b>93</b>
 <b>DAY 8: MONDAY, JULY 12.....</b>	 <b>94</b>
<b>Module 7 Monitoring Respect for Roma Rights .....</b>	<b>95</b>
<i>Activity 1 What Does Human Rights Monitoring Involve?.....</i>	<i>96</i>
<i>Activity 2 Presentation – “Effective Monitoring of Roma Rights” .....</i>	<i>102</i>
<i>Activity 3 Testing .....</i>	<i>105</i>
 <b>DAY 9: TUESDAY, JULY 13 .....</b>	 <b>106</b>
<b>Module 8 Promotion of Roma Rights Through Advocacy Work .....</b>	<b>107</b>
<i>Activity 1 Human Rights Advocacy.....</i>	<i>108</i>
<i>Activity 2 Effective Advocacy Strategies .....</i>	<i>112</i>
<i>Activity 3 Designing and Assessing an Advocacy Campaign .....</i>	<i>122</i>

<b>DAY 10: WEDNESDAY, JULY 14.....</b>	<b>126</b>
<i>Module 9 Follow-Up .....</i>	<i>127</i>
<i>Activity 1 Why Work in Networks and Coalitions?.....</i>	<i>128</i>
<i>Workshop Evaluation and Closing .....</i>	<i>131</i>
<b>APPENDICES.....</b>	<b>132</b>
<i>Appendix 1 Opening Session Greetings and Introductions.....</i>	<i>133</i>
<i>Appendix 2: Framework Convention for the Protection of National Minorities .....</i>	<i>135</i>
<i>Appendix 3: Framework Convention for the Protection of National Minorities –         Explanatory Report.....</i>	<i>146</i>
<i>Appendix 4: Declaration on the Rights of Persons Belonging to National or         Ethnic, Religious and Linguistic Minorities .....</i>	<i>164</i>
<i>Appendix 5: Info Packs on International Instruments.....</i>	<i>168</i>
<i>Appendix 6: Processes and Activities of Monitoring – Answer Key .....</i>	<i>191</i>

# Introduction

## Program Goal

The goal of the ERRC Summer School is to develop the capacity of a new generation of Roma leaders and human rights activists, to use international, regional and domestic human rights instruments and mechanisms to protect and promote the rights of the Roma people, both domestically and internationally.

## Objectives

The objectives of the Summer School are to enable participants to:

- Analyze issues and situations affecting Roma in their respective countries based on internationally accepted human rights values and principles
- Develop skills in using domestic mechanisms (such as national legislation) and international human rights instruments (i.e., United Nations and European human rights systems) to protect and promote the rights of Roma
- Strengthen skills in monitoring and reporting human rights violations and constructing an advocacy framework
- Increase their capacity to apply their learning within their organizations and their societies
- Explore opportunities for networking and developing partnerships with NGOs and government officials to further advance the cause of Roma rights throughout Europe

## Target Group

Young Roma activists working in the area of protection and promotion of human rights for the Roma people.

## Acknowledgements

The European Roma Rights Center (ERRC) and the Canadian Human Rights Foundation (CHRF) are indebted to all those who have dedicated their time and expertise to the preparation of this training manual. Our gratitude goes to our partners and friends who provided human resources, and technical and other forms of assistance to develop, print, and distribute this training manual.

The following Curriculum Development Team developed this training manual: Vincenza Nazzari, Paul McAdams, Ria Holcak, Peter Wallet, and Larry Olomoofe (ERRC).

This manual was realized thanks to the financial support of the Government of Canada provided through the Canadian International Development Agency (CIDA).



Agence canadienne de  
développement international

Canadian International  
Development Agency



# Workshop Schedule

Day	Day 1	Day 2	Day 3	Day 4	Day 5	Day 6	Day 7	Day 8	Day 9	Day 10
Time	Monday July 5	Tuesday July 6	Wednesday July 7	Thursday July 8	Friday July 9	Saturday July 10	Sunday July 11	Monday July 12	Tuesday July 13	Wednesday July 14
Morning 8:30 – 12:00	<b>Module 1</b> – Getting to Know the Group  <b>Module 2</b> – Current Situation of Roma in the CEE region	Module 2 – cont'd	<b>Module 3</b> – Internation- al Standards for the Protection of Roma Rights	Module 4 – cont'd	<b>Module 6</b> – The European Conven- tion on Human Rights	Activity: Meeting NGOs Working on Roma Rights	Day off	<b>Module 7</b> Monitoring Respect for Roma Rights	<b>Module 8</b> – Promotion of Roma Rights through Advocacy Work	<b>Module 9</b> – Follow Up
Lunch 12:00 – 13:30										
Afternoon 13:30 – 17:45	<b>Module 2</b> – cont'd  Evaluation	Module 2 – cont'd  Evaluation	<b>Module 4</b> – Protection of Roma Rights at the Domestic Level  Evaluation	<b>Module 5</b> – Debating Human Rights  Evaluation	Module 6 – cont'd (Moot Court)  Evaluation	Activity cont'd		Module 7 – cont'd  Evaluation	Module 8 – cont'd  Evaluation	Evaluation and Closing
Evening 18:00-22:00										

# Day 1: Monday, July 5

## Module 1 – Setting the Context

9:00-9:15	Opening	
9:15 – 9:50	Activity 1	Welcome and Introductions
9:50 – 10:10	Activity 2	Participants' Expectations and Resources
10:10 – 10:30	Activity 3	Overview of the Program
10:30 – 11:00	Break	

## Module 2 – The Current Situation of Roma Rights in Central and Eastern Europe

11:00 – 12:30	Activity 1	Roma Rights Issues in Your Country
12:30 – 14:00	Lunch	
14:00 – 15:00	Activity 2	Public Perception Map
15:00– 16.00	Activity 3	Understanding the Term 'Minority'
16:00 – 16:30	Break	
16:30 – 17:30	Activity 3	Current Roma Rights Issues – Presentation by Dimitrina Petrova
17:30 – 17:45		Evaluation

# Module 1

## Setting the Context



### Objectives

- To get to know the members of the group
- To examine individual expectations and available resources in the group
- To discuss objectives of the summer school in relation to the expectations expressed

## Opening Statements: Executive Director, ERRC

### Time

15 min

## Activity 1 Welcome and Introductions

### Objective

To exchange different types of greetings and reflect on people's reactions to the cultural variations.

### Time

35 minutes

### Materials

Appendix 1: Opening Session: Greetings and Introductions

### Description

This activity is divided into 2 parts.

In **Part A**, participants will exchange greetings with each other.

In **Part B**, the facilitator will debrief the process.

### **15 min**

#### **Part A Greetings**

The facilitator has each participant take a slip of paper out of a hat and then mingle in the middle of the room. The facilitator then asks participants to greet each other by saying their name and using the action described on the slip of paper.

Once participants have had a chance to greet everyone present, they return to their places.



*Act. 1 cont'd*

**20 min**

**Part B Debriefing**

The facilitator leads a short discussion about the participants' reactions to the different greetings.

Some suggested questions:

- Can you guess where the different greetings come from?
- To what extent are they stereotypes?
- Which of the greetings made you comfortable/uncomfortable? Why?
- Have you ever been in an embarrassing situation with someone from another country because you were not aware of the social code for greeting one another? (e.g. stepping back after 2 kisses when your colleague from another country wanted to give you 3.)

Activity adapted from "All different, All Equal" p. 189-190

**End of Activity** ■

## Activity 2 Participants' Expectations and Resources

### Objectives

To examine individual expectations and available resources in the group.

### Time

20 minutes

### Materials

- Flipchart version of **Worksheet 1: Expectations and Resources**
- 3 strips of paper for each participant (20 cm by 10 cm)

### Description

The facilitator gives each participant 3 strips of paper. Participants will label the strips as follows:

**N** – (for **N**ame)

**E** – (for **E**xpectations)

**R** – (for **R**esources)

On the **N** card write your name.

On the **E** card write **ONE** of your expectations for this workshop (i.e., what you expect to know and be able to do at end of the program).

On the **R** card write **ONE** resource that you feel that you can offer the group.

Once you have finished, paste your cards on the flipchart version of **Worksheet 1**.

The facilitator then reviews the information provided by participants and maps connections between the expectations and resources listed on the flipchart.

End of Activity

## Worksheet 1: Expectations and Resources

N Name	E My Expectations	R My Resources/ What I can Offer

## Activity 3 Overview of the Program

### Objectives

To relate participants' expectations and resources to the objectives, goals and content of the Summer School program.

### Time

20 min

### Materials

Flipchart version of Worksheet 1

### Description

The facilitator provides an overview of the program, referring back to the expectations and resources expressed by participants in Activity 2.

**End of Activity** ■



# Module 2

## The Current Situation of Roma Rights in Central and Eastern Europe



### Objectives

- To describe the human rights situation of Roma in different countries of Europe
- To examine current public perceptions of Roma in multi-ethnic society, as well as Roma perceptions of themselves
- To explore characteristics of a “minority”
- Relate the concept of “minority” to the present Roma context\

## Activity 1 Roma Rights Issues in Your Country

### Objective

To explore the current situation of the Roma in Europe.

### Time

1 hr 30 min

### Materials

- **Worksheet 2**

### Description

This activity is divided into three parts.

In **Part A**, participants will watch an excerpt from the film, *The Gypsies of Svinia*.

In **Part B**, participants will work in small groups to determine key issues affecting Roma in their respective countries.

In **Part C**, each group will present the issues they identified to the larger group. A resource person will comment on the presentations.

**10 min**

#### **Part A Film: *The Gypsies of Svinia***

Participants watch an excerpt from the film in order to establish context and reflect on the human rights situation of their own community.

**30 min**

#### **Part B Presentation**

The facilitator divides participants into small groups.

1. Using **Worksheet 2**, prepare a 10-minute report on the key issues facing Roma in your country. Participants should examine long-standing issues and newer, emerging issues facing Roma.
2. Choose a reporter to do the presentation for your group and someone to prepare a flipchart version of **Worksheet 2**.



*Act. 1 cont'd*

**50 min**

**Part C Group Presentations**

1. The facilitator reconvenes the whole group. Each group has 10 minutes to present its summary report on Roma issues. (30 min)
2. A resource person comments on the group reports and then facilitates a large group discussion on the situation of Roma rights. Together with the participants, the facilitator identifies 5 to 8 common issues across the region. These issues will be discussed throughout the session. (Activity 3 Module 2) (20 min)

**End of Activity** ■



## Activity 2 Public Perception Map

### Objective

To examine some of the potential causes of Roma human rights violations rooted in public perceptions.

### Time

1 hour

### Materials

#### Worksheet 3: Public Perception Map

### Description

In **Part A**, you will work in small groups to identify issues that influence the public perceptions of Roma.

In **Part B**, the resource person will lead a group discussion based on the findings.

### 20 min

#### Part A Work in a Group

1. In country groups, participants identify characteristics of Roma communities that positively or negatively influence the public opinion of Roma. Write these characteristics on the sticky notes provided.
2. Using **Worksheet 3**, your group should place the characteristics in the circle, keeping in mind that the farther out you place the item, the more negative or positive your group feels the item to be. Items placed closer to the center are more subject to interpretation as they contribute both positively and negatively to public perceptions.



*Act. 2 cont'd*

**40 min**

**Part B Group Discussion**

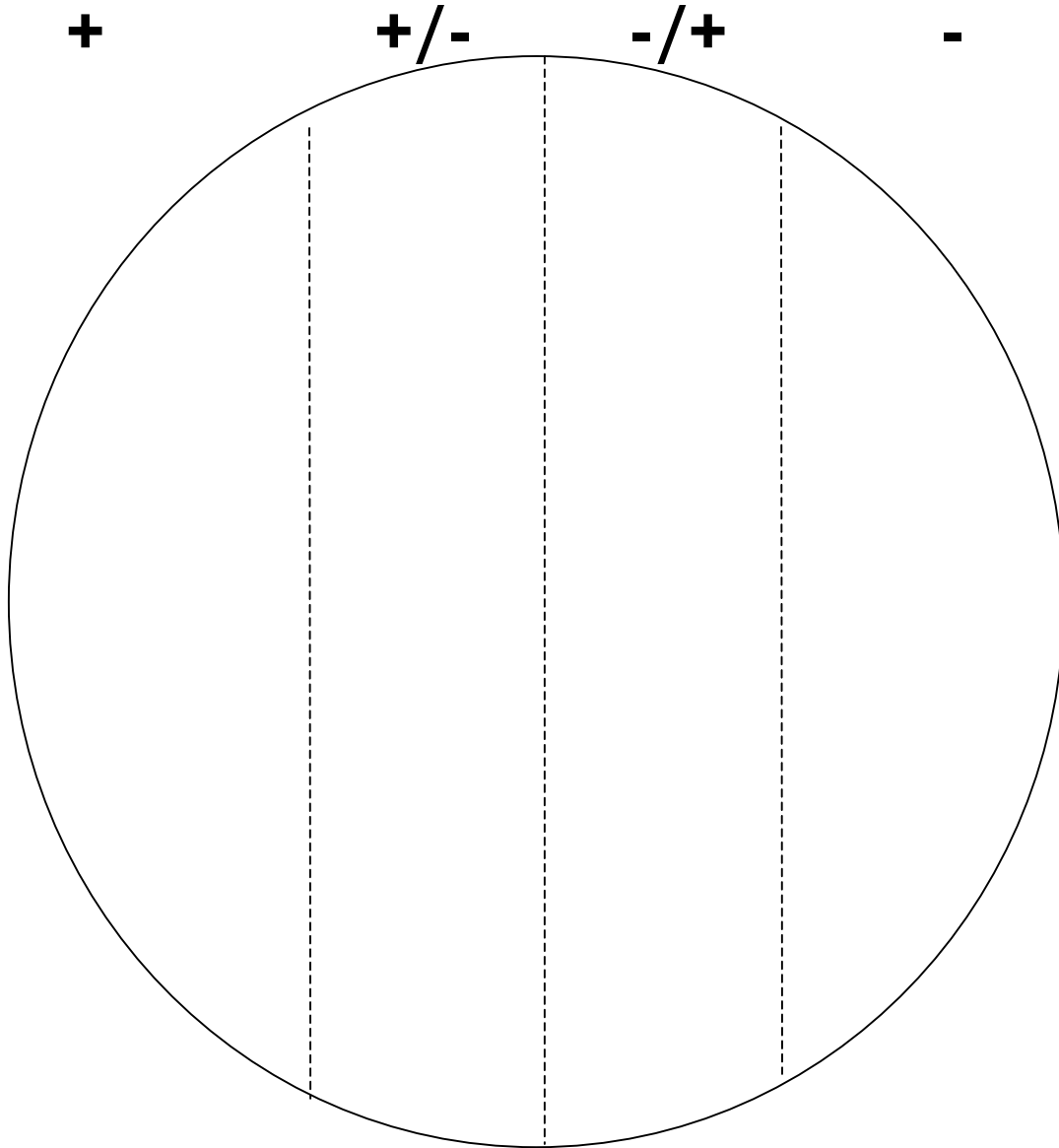
The resource person asks each group to report the items they selected. Using the flipchart version of **Worksheet 3**, the facilitator writes these items down and engages the larger group in discussion. Questions to consider:

- Which items would you place differently? Why?
- Which items, if any are missing?
- Which items would you remove, if any?
- Which items do you think may straddle the center, indicating that the item has both positive and negative influences on public perceptions?
- How do various Roma communities perceive themselves?

The resource person comments on the final results of this activity and identifies the trends that appear in different groups' responses.

**End of Activity** ■

### Public Perceptions of Roma



#### Issue: Public Perceptions of Roma

Write on 'sticky notes' examples of characteristics, events, people, and ideas that either help or hinder the public perception of the Roma people. Place these items within the circle, depending on the degree of positive and/or negative impact. Placing an item on the middle line suggests that the item is equally positive and negative in terms of its impact.

## Activity 3 Understanding the Term “Minority”

### Objective

To examine various definitions and characteristics of a ‘minority’.

### Time

1 hour

### Materials

- Working definitions provided in the **Reference Sheet 1: Working Definitions of a “Minority”**.
- A flipchart version of **Worksheet 4: Characteristics of a Minority**
- Flipchart paper and markers for each group

### Description

The Roma constitute the largest ethnic minority in Central and Eastern Europe (numbering approximately 7 to 9 million in Europe).

Do the Roma identify themselves as a minority group? If so, a better understanding of the term minority is required. Immediately we must recognize that there is no single official definition of a “minority”; rather a number of working definitions have been developed (such as state and United Nations definitions). An understanding of these definitions is essential in order to effectively use the instruments available to protect and promote the rights of minority groups.

This activity is divided into 2 parts.

In **Part A**, you will work in small groups to review working definitions of a “minority”.

In **Part B**, you will share the information in a large group discussion.





*Act. 3 cont'd*

**20 min**

**Part A Small Group Work**

1. The facilitator divides participants into small groups. Each group is assigned a different working definition of a “minority”. See **Reference Sheet 1**.
2. Together with the members of your group:
  - Review the working definition.
  - Focus on the key characteristics presented and decide whether or not you agree with them. Add any characteristics that you feel are missing.
  - Record the results of your discussion on **Worksheet 4** and prepare to present your ideas to the other groups.

**40 min**

**Part B Large Group Discussion**

A resource person leads a discussion on characteristics of a minority.

1. The facilitator or resource person begins by synthesizing the information gathered by the participants and records the information on a flipchart version of **Worksheet 4**.
2. Participants are then asked what ideas or concepts they do not agree with and why.
3. Based on the ideas presented by all the groups and working with the resource person, participants try to come to a common understanding of the characteristics of a “minority”.

**End of Activity** ■

### **The Permanent Court of International Justice (1930)**

“By tradition ... the ‘community’ is a group of persons living in a given country or locality, having a race, religion, language and tradition of their own and united by this identity of race, religion, language and tradition in a sentiment of solidarity, with a view to preserving their traditions, maintaining their form of worship, ensuring the instruction and upbringing of their children in accordance with the spirit and tradition of their race and rendering mutual assistance to each other... The existence of communities is a question of fact: it is not a question of law.”

### **Sub-Commission on Prevention of Discrimination and Protection of Minorities (geographic perspective) (1947)**

“Three major minority groups include:

- (i) Those that are concentrated on the borders and are of the same nationality, religion or language as the inhabitants of an adjacent State;
- (ii) Those which are isolated in islands within a country and are surrounded by the people of the dominant majority;
- (iii) Those which are dispersed throughout the country.”

### **Sub-Commission on Prevention of Discrimination and Protection of Minorities (5<sup>th</sup> session) (1952)**

- (i) “The term minority includes only those non-dominant groups in a population which possess and wish to preserve stable ethnic, religious or linguistic traditions or characteristics markedly different from those of the rest of the population;
- (ii) Such minorities should properly include a number of persons sufficient by themselves to preserve such traditions or characteristics;
- (iii) Such minorities must be loyal to the State of which they are nationals. “

### **Special Rapporteur on Minorities of the Sub-Commission, Francesco Capotorti (1977)**

“A group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show, if

only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language”.

**Member of the Sub-Commission, Jules Deschênes (1985)**

“A group of citizens of a State, constituting a numerical minority and in a non-dominant position in that State, endowed with ethnic, religious or linguistic characteristics which differ from those of the majority of the population, having a sense of solidarity with one another, motivated, if only implicitly, by a collective will to survive and whose aim is to achieve equality with the majority in fact and in law”.

**Council of Europe, Parliamentary Assembly (1993)**

"A group of persons in a state who: a) reside on the territory of that state and are citizens thereof; b) maintain longstanding, firm and lasting ties with that state; c) display distinctive ethnic, cultural, religious or linguistic characteristics; d) are sufficiently representative, although smaller in number than the rest of the population of that state or of a region of that state; e) are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language."

**Hungarian Minorities Act (1993)**

“All ethnic groups having lived on the territory of the Republic of Hungary for at least one century, that are in a numerical minority among the population of the State, whose members are Hungarian citizens and different from the rest of the population in terms of their own language, culture, and traditions, and that give proof of such a conscience of belonging which is directed towards the preservation of all this, to the expression and the protection of the interests of their historically evolved communities.”

## Worksheet 4: Characteristics of a Minority

Characteristics of a minority presented in the working definition that you **AGREE** with:

Characteristics of a minority presented in the working definition that you **DISAGREE** with:

Characteristics of a minority **NOT** presented in the working definition:

## Activity 4 Current Roma Rights Issues – Presentation

### Objective

To describe the human rights situation of Roma across Europe.

### Time

1 hour

### Description

In **Part A**, the resource person will give a presentation.

In **Part B**, there will be a question and answer period.

**30 min**

#### **Part A Presentation**

The resource person will:

- Examine current problems and dilemmas of human rights in the broader context and their impact on respect for human rights in the European regions where Roma live
- Highlight human rights issues particular to Roma and how/if these are being addressed
- Explore minority rights legislation as a platform for the protection of Roma rights
- Discuss the importance of human rights education in the schools and the challenges regarding teaching human rights in Roma communities

**30 min**

#### **Part B Question & Answer Period**

The resource person addresses questions raised by participants.

End of Activity 

## Day 2: Tuesday, July 6

Module 2 cont. – The Current Situation of Roma Rights in Central and Eastern Europe

8:30-8:45	Recap of Day 1	
8.45 – 9.15	Activity 5	My Understanding of Human Rights
9.15 – 10:30	Activity 6	Human Rights Principles
10:30 – 11:00	Break	
11:00 – 12:30	Activity 7	“The King’s Daughter”
12:30 – 14:00	Lunch	
14:00 – 15:00		“The King’s Daughter” cont’d
15:00– 15:30	Activity 8	Rights-based Approach
15:30 – 16:00	Break	
16:00– 17:00		Rights-based Approach cont’d
17:00 – 17:15		Evaluation

## Activity 5 My Understanding of Human Rights

### Objective

To reflect on personal notions of human rights.

### Time

30 min

### Description

This activity is divided into two parts.

In **Part A**, participants will reflect on the meaning of human rights.

In **Part B**, participants will share their ideas with the group.

### **5 min**

#### **Part A Work Individually**

Take a few moments to respond individually to the question below.

What do “human rights” mean to you? Give some examples. Write your ideas in the space below.

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25 min

**Part B**

1. Reflect on the definitions of human rights presented below:

**Human rights have been defined as:**

“...an international ethical vision of principles to live by.”

“...a value system that promotes the dignity and worth of all human beings.”

“...the universal rights of all, regardless of class, sex, or ethnic background by virtue of one’s humanity.”

Resource: Fisher, E & Mackay, L.G. (1996) Gender justice: Women’s rights are human rights. Unitarian Universalist Service Committee.

2. Consider some of these questions with the large group:

- Do you think that human rights are universal? Why or why not?
- Do you feel that the group shares a common concept of human rights?

End of Activity ■



## Activity 6 Human Rights Principles

### Objective

To reflect on some of the basic principles of human rights.

### Time

1 hr 15 min

### Materials

- **Reference Sheet 2: Underlying Principles of Human Rights**
- **Reference Sheet 3: Summary of the Articles of the UDHR**

### Description

This activity is divided into two parts.

In **Part A**, you will work in small groups to reflect on some of the underlying human rights principles which inform the Universal Declaration of Human Rights (UDHR).

In **Part B**, you will address some questions in a larger group.

30 min

#### Part A Work in a Group

1. The facilitator divides you into small groups.
2. The facilitator assigns your group two of the human rights principles listed below.

#### Human Rights Principles

- Equality
- Universality
- Human dignity
- Non-discrimination
- Indivisibility
- Interdependency
- Inalienability
- Responsibility



*Act. 6 cont'd*

3. Your group prepares a 5-minute presentation on the principles you have been assigned. Review the descriptions of the principles provided on the next page and add your own ideas. Prepare to explain the terms to the larger group.

**40 min**

**Part B Presentations and Discussion**

Each group presents their understanding of the principles. The facilitator then leads a class discussion on the interpretations and applications of the terms. (20 min)

Then as a group, address the following questions (20 min):

- What do these principles mean in the context of the Roma?
- How are they applied?
- What are some barriers to their full application?

**End of Activity** ■

## Reference Sheet 2: Underlying Principles of Human Rights

### **Equality**

The equality concept expresses the notion of respect for the inherent dignity of all human beings. As specified in Article 1 of the Universal Declaration of Human Rights, it is the basis of human rights: "All human beings are born free and equal in dignity and rights."

### **Universality**

Certain moral and ethical values are shared in all regions of the world, and governments and communities should recognize and uphold them. The universality of rights does not mean, however, that the rights cannot change or that they are experienced in the same manner by all people.

### **Human dignity**

The principles of human rights are founded on the notion that each individual, regardless of age, culture, faith, ethnicity, race, gender, sexual orientation, language, disability or social class, deserves to be honored or esteemed.

### **Non-discrimination**

Non-discrimination is integral to the concept of equality. It ensures that no one is denied the protection of their human rights based on some external factors. Reference to some factors that contribute to discrimination contained in international human rights treaties include: race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The criteria identified in the treaties, however, are only examples, it does not mean that discrimination is allowed on other grounds.

**Sources:** Flowers, N. (2000). The Human Rights Education Handbook: Effective Practices For Learning, Action, And Change. Minneapolis, MN: University of Minnesota.

Ravindran, D. J. (1998). Human Rights Praxis: A Resource Book for Study, Action and Reflection. Bangkok, Thailand: The Asia Forum for Human Rights and Development.

### **Indivisibility**

Human rights should be addressed as an indivisible body, including civil, political, social, economic, cultural, and collective rights.

### **Inalienability**

The rights that individuals have cannot be taken away, surrendered, or transferred.

### **Interdependency**

Human rights concerns appear in all spheres of life -- home, school, workplace, courts, markets -- everywhere! Human rights violations are interconnected; loss of one right detracts from other rights. Similarly, promotion of human rights in one area supports other human rights.

### **Responsibility**

Government responsibility: human rights are not gifts bestowed at the pleasure of governments. Nor should governments withhold them or apply them to some people but not to others. When they do so, they must be held accountable.

Individual responsibility: Every individual has a responsibility to teach human rights, to respect human rights, and to challenge institutions and individuals that abuse them.

Other responsible entities: Every organ of society, including corporations, non-governmental organizations, foundations, and educational institutions, also shares responsibility for the promotion and protection of human rights.

### Reference Sheet 3: Summary of the Articles of the UDHR

<ol style="list-style-type: none"> <li>1. Right to equality</li> <li>2. Freedom from discrimination</li> <li>3. Right to life, liberty, personal security</li> <li>4. Freedom from slavery</li> <li>5. Freedom from torture and degrading treatment</li> <li>6. Right to recognition as a person before the law</li> <li>7. Right to equality before the law</li> <li>8. Right to remedy by competent tribunal</li> <li>9. Freedom from arbitrary arrest, exile</li> <li>10. Right to a fair public hearing</li> <li>11. Right to be considered innocent until proven guilty</li> <li>12. Freedom from interference with privacy, family, home, and correspondence</li> <li>13. Right to free movement in and out of any country</li> <li>14. Right to asylum in other countries from persecution</li> <li>15. Right to a nationality and freedom to change it</li> </ol>	<ol style="list-style-type: none"> <li>16. Right to marriage and family</li> <li>17. Right to own property</li> <li>18. Freedom of belief and religion</li> <li>19. Freedom of opinion and information</li> <li>20. Right of peaceful assembly and association</li> <li>21. Right to participate in government and free elections</li> <li>22. Right to social security</li> <li>23. Right to desirable work and to join trade unions</li> <li>24. Right to rest and leisure</li> <li>25. Right to adequate living standards</li> <li>26. Right to education</li> <li>27. Right to participate in cultural life and community</li> <li>28. Right to social order assuring human rights</li> <li>29. Community duties essential to free and full development</li> <li>30. Freedom from state and personal interference in the above rights</li> </ol>
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## Activity 7 “The King’s Daughter” Case Study

### Objective

To examine how personal and cultural values and deeply held assumption about “right and wrong” influence the actions and reactions of individuals.

### Time

2 hrs 30 min

### Materials

- **Reference Sheet 4: The King’s Daughter – A Case Study**
- **Worksheet 5: Assessment of the King’s Daughter Case Study**

### Description

This activity is divided into four parts.

In **Part A**, you will read "The King’s Daughter – A Case Study" and individually answer some questions.

In **Part B**, you will work with a partner and repeat the activity.

In **Part C**, you will join another pair and repeat the activity once more.

Finally, in **Part D** you will address the discussion questions as a group.

### 30 min

#### **Part A Work Individually – Personal Assessment of the Issues**

Read the “The King’s Daughter – A Case Study”, which is found at the end of the instructions. Determine:

- Were the rights of the children in this case violated (those of the girl and the boy)? If so, how?
- What are the possible arguments (if any) to justify the marriage?
- Who are the most and least powerful characters in this story? Why?

Record your answers in **Section 1 of Worksheet 5**.



*Act. 7 cont'd*

**30 min**

**Part B Work With A Partner – *Group of Two Assessment of the Issues***

Choose a partner and try to reach consensus about the human rights issues contained in this story. Also try to reach consensus on who are the most and least powerful characters. Record your answers in **Section 2 of Worksheet** .

**30 min**

**Part C Work With Another Pair – *Group of Four Assessment of the Issues***

Join another pair to form a group of four. Repeat the process of trying to reach consensus and record your answers in **Section 3 of Worksheet 5**.

**1 hr**

**Part D Group Discussion**

1. Discuss the experience of reaching consensus. Some questions are provided below to help you.
  - Did anyone find that they changed their minds as a result of discussion? Why?
  - Were any groups of four unable to reach consensus? What factors prevented consensus?
  - What were the principal shared values that shaped consensus?
  - What were the principal differences of opinion that made consensus difficult or impossible?
2. The following questions focus more specifically on the gender relations of the story.
  - Would you change your opinion about the issues if Ana-Maria was a boy? What if the King was actually a Queen? If yes, why?
  - Do terms like justice, power, or tradition have different meanings when applied to men or women?
  - Does gender play a role in shaping people's attitudes on these particular issues?



*Act. 7 cont'd*

3. The differing assessments or value judgments that resulted from the discussions of the characters in "The King's Daughter" and the issues of universality and cultural relativism are closely connected.
  - Can concepts like human dignity and integrity serve to resolve conflicting value judgments?
  - Can human rights truly be universal when such differing values exist?
4. If this case were examined from a rights-based perspective, what rights would have been violated? What would be the state's obligations to redress the violated rights?

**End of Activity** ■

## Reference Sheet 4: The King's Daughter – A Case Study

A self-declared Roma king has told critics to mind their own business after international condemnation of his young daughter's marriage.

Human rights activists and members of the European Parliament have demanded action over the marriage of Ana-Maria Cioaba to a 15-year-old bridegroom.

But on Tuesday, September 30, 2003, the girl's father, Florin Cioaba, went on television to tell the critics – including MEP Emma Nicholson, the EU's envoy to Romania – to keep out of his business.

"As a father I know what is good for my kids. There are some laws that have to be respected. We Roma have a tradition to marry our children when minors," he said. "This is an offence for all Gypsies...I condemn their parents for what happened," said Madalin Voicu, Roma Parliamentary Representative.

Ana-Maria, reported to be either 12 or 14 years old, was reluctantly married on Saturday, despite storming off at one point during the ceremony. Family members say she had been promised in marriage to 15-year-old Birta Mihai when she was aged just seven, for the price of 500 gold coins.

Baroness Nicholson demanded that both Ana-Maria and her teenage husband be taken into care.

The wedding was an "exceptionally grave breach of children's rights", she wrote to Romanian Deputy Prime Minister Serban Mihailescu.

The marriage was unlawful because it was "instigation to illegal sex between minors", said Nicolae Stefanescu-Draganesti, the president of Romania's League for Human Rights.

Madalin Voicu, a Roma representative in parliament, said: "This is an offense for all Gypsies...I condemn their parents for what happened."

### **Statutory 'rape'?**

Ana-Maria fled from church as her father conducted the wedding service. She was persuaded to return and went through with the ceremony at Sibiu in central Romania. Observers said Ana-Maria looked sad and sullen during the ceremony, and did not acknowledge the groom. Her aunt, Luminita Cioaba, confirmed that Ana-Maria had no say in the matter. Friends say she was forced to consummate the marriage. "Legally it was rape," one friend said.

The Cioaba family spokeswoman, Dana Chendea, said the bridegroom's family had proudly showed a bed sheet to prove the marriage had been consummated.



Ana-Maria is reported to now be living at her mother-in-law's house with her new husband.

### **EU Blow**

The minimum age for legal weddings in Romania is 16, but the practice of school-age marriages remains common in the Roma community, and the Romanian authorities normally turn a blind eye.

Romania is committed to implementing laws that conform to European Union standards. It wants to join the EU in 2007 and its human rights record will have to be judged appropriate for membership.

Official figures say more than 550,000 Roma live in Romania, but the real number is believed to be more than 1.5 million. Romania has a population of 22 million.

Story from BBC NEWS:

<http://news.bbc.co.uk/go/pr/fr/-/2/hi/europe/3153650.stm>

## Worksheet 5: Assessment of the “King’s Daughter”

### SECTION 1 — Personal Assessment

#### SECTION 1: Personal Assessment of the Characters

In your opinion:

a) Was this marriage an infringement on the children’s rights? \_\_\_\_\_

If yes, why? \_\_\_\_\_

b) What possible justifications are there for this marriage?

\_\_\_\_\_

c) Who is the most powerful character in this story? \_\_\_\_\_

Why? \_\_\_\_\_

d) Who is the least powerful character in this story? \_\_\_\_\_

Why? \_\_\_\_\_

### SECTION 2 – Consensus of Two

Questions	Agree?	Reason(s)	
a) Do you and your partner agree on whether this was an infringement of the rights of the children? Give reasons for your choice.	Yes <input type="checkbox"/> No <input type="checkbox"/>		
b) Do you and your partner agree on the reason for this marriage? Give reasons for your choice.	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Questions	Agree?	Character’s Name	Reason(s)
c) Do you and your partner agree on who is the most powerful character? If yes, name the character and give the reasons for your choice.	Yes <input type="checkbox"/> No <input type="checkbox"/>		
d) Do you and your partner agree on who is the least powerful character? If yes, name the character and give the reasons for your choice.	Yes <input type="checkbox"/> No <input type="checkbox"/>		

### SECTION 3 – Consensus of Four

Questions	Agree?	Reason(s)	
a) Do you and your partner agree on whether this was an infringement of the rights of the children? Give reasons for your choice.	Yes <input type="checkbox"/> No <input type="checkbox"/>		
b) Do you and your partner agree on the reason for this marriage? Give reasons for your choice.	Yes <input type="checkbox"/> No <input type="checkbox"/>		
Questions	Agree?	Character's Name	Reason(s)
c) Do you and your partner agree on who is the most powerful character? If yes, name the character and give the reasons for your choice.	Yes <input type="checkbox"/> No <input type="checkbox"/>		
d) Do you and your partner agree on who is the least powerful character? If yes, name the character and give the reasons for your choice.	Yes <input type="checkbox"/> No <input type="checkbox"/>		

## Activity 8 A Rights-Based Approach

### Objective

To examine a rights-based approach.

### Time

1 hr 30 min

### Materials

- **Reference Sheet 5: A Right-Based Approach**
- **Worksheet 6: Applying A Rights-Based Approach to the Issue of Education of Roma Girls**

### Description

This activity is divided into two parts.

In **Part A**, you will work in a group to discuss your understanding of a rights-based approach.

In **Part B**, you will practice using a rights-based approach to address the issue of basic education of Romani girls.

### 40 min

#### **Part A Work in a Group**

The facilitator divides participants into two groups. Each group responds to the two questions below.

1. What is the difference between a right and a need?
2. What are the elements of a rights-based approach?

**Group 1** – participants base their discussion on their own experience.

**Group 2** – participants are provided with materials to guide their discussion. (30 min)

Each group has 5 minutes to present the results of their discussion. (10 min)



*Act.8 cont'd*

**50 min**

**Part B Work in a group**

Work in the same groups as in **Part A**. Discuss how to address the issue of basic education of Romani girls using a **rights-based response**. Record your answers on **Worksheet 6**. (20 min)

The facilitator will prepare a flipchart version of the chart on **Worksheet 6**. He/she invites the groups to share their ideas.

The facilitator records all the ideas presented on the flipchart and comments. (30 min)

**End of Activity** ■

## Reference Sheet 5: A Rights-Based Approach

### A Rights-Based Approach

#### Human Rights

A human right is something I am entitled to simply because I am a human being. Human rights belong to every individual, man or woman, girl or boy, infant or elder simply because he or she is a human being. A human right is what enables me to live in dignity.

Once something is defined or identified as a right it means that:

- There is an obligation on the part of the government to respect, promote, protect, and fulfill that right.
- The right can be enforced.

#### Rights and Needs

A right is different from a need. A need is an aspiration. A need can be legitimate however; it is not necessarily associated with a government obligation. Satisfying a need cannot be enforced. A right entails a government obligation and can be enforced. Rights are associated with "being". Needs are associated with "having".

- Human rights are **universal**. They are the birthright of every member of the human family. No one has to earn or deserve human rights.
- Human rights are **inalienable**. You cannot lose these rights anymore than you can cease to be a human being.
- Human rights are **indivisible**. You cannot be denied a right because someone decides it is less important or non-essential. HR should be addressed as an indivisible body, including civil, political, social, economic, cultural and collective rights.
- Human rights are **interdependent**. All human rights are part of a complementary framework. Human rights concerns appear in all spheres of life: home, school, and the workplace.
- Human rights violations are **interconnected**; loss of one right detracts from other rights. Similarly promotion of human rights in one area supports other human rights.

#### **Rights Approach**

- Rights are realized
- Rights always imply duties and obligations
- Rights are universal
- Rights can only be realized by attention to both outcome and process
- All rights are equally important

#### **Needs Approach**

- Needs are met or satisfied
- Needs do not imply duties or obligations
- Needs are not necessarily universal
- Basic needs can be met by goal or outcome oriented strategies
- Needs can be ranked in hierarchical priorities

### Underlying Principles of a Rights-Based Approach

A rights-based approach is founded on the conviction that every human being, by virtue of being human, is a holder of rights. A rights-based approach:

- Assumes that all human beings, including children should have equal opportunity to realize their full developmental potential.
- Involves a process of empowering those who do not enjoy their rights to claim their rights. It does not involve charity or simple economic development.
- Integrates the norms, standards and principles of the international human rights system into the plans, policies and processes of development programs, social programs and other programs.
- Supports the concept that all persons, regardless of gender, race, religion, ethnicity, social status or any other difference, have a basic right to life with dignity. Rights-based programs address all aspects of a person's life (for example, from ensuring basic survival through meeting psychological needs). They are holistic and inclusive.

The principles of a rights-based approach include equality and equity, accountability, empowerment and participation.

### The Elements of a Rights-Based Approach

#### 1. **DIRECT LINKS TO RIGHTS**

- Establishes direct links to international, regional and national human rights instruments.
- Considers the full range of indivisible, interdependent and interrelated rights: civil, cultural, economic, political and social.

#### 2. **Increased levels of ACCOUNTABILITY**

- Identifies claim-holders (and their entitlements) and corresponding duty-holders (and their obligations).
- Identifies the positive obligations of duty-holders (to protect, promote and provide) and their negative obligations (to abstain from violations).

#### 3. **Move from dependency to EMPOWERMENT**

- Focuses on beneficiaries as the owners of rights and the directors of development instead of the objects of programs and actions to address their needs.

- Gives people the power, capabilities and access needed to change their own lives, improve their own communities and influence their own destinies. Places a higher emphasis on the strengths of individuals and communities including children to play a more active part in the societies in which they live.

#### 4. PARTICIPATION

- Aims for a high degree of participation, from communities, civil society, minorities, indigenous peoples, women, children and others.
- Sees youth and children as active participants in finding constructive solutions.

#### 5. NON-DISCRIMINATION

- Gives particular attention to discrimination, equality, equity and marginalized groups. These groups may include women, minorities, indigenous peoples and prisoners, but there is no universal checklist of who is most vulnerable in every context. A rights-based approach requires that the question of who is marginalized here and now be answered locally.

#### *A Rights-Based Approach to Education*

In the Human Development Report 2000, the UNDP gives an illustration of this approach with regard to the issue of basic education.

‘...to assert a human right to free elementary education is to claim much more than it would be a good thing for everyone to have an elementary education – or even that everyone should have an education. In asserting this right we are claiming that all are entitled to a free elementary education, and that, if some persons avoidably lack access to it, there must be culpability somewhere in the social system.’

**The rights-based approach.** Premised on the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women, this Approach focuses on the 125 million children, 66 million of them girls, who are denied their right to basic quality education.



**The multi-sectoral approach.** Honed over decades of work, this approach recognizes that integrated actions in related fields yield the greatest results for children's education. For example, interventions in health and nutrition improve a child's chances for survival and sound development. They contribute to better performance in school. Likewise, providing school meals improves nutrition. It provides an incentive to enrol and keep a child in school. And ensuring safe water and adequate sanitation ensures that girl as well as boys will enrol and stay in school.

**"Accompanying" countries.** This strategy is based on the idea that countries often need help beyond the provision of funds. Having been invited by government, UNICEF becomes involved in day-to-day decision-making to ensure education for every child, while respecting the vision that a country has set out for its own development. UNICEF is uniquely positioned for this role because of its track record, its decentralized structure and its experience in more than 150 countries.

**Acceleration.** UNICEF, in collaboration with dozens of partners, has committed itself to doing everything possible to maximize the enrolment of girls in 25 countries where the situation is most critical, by the year 2005.

In these countries, UNICEF is concentrating resources, intensifying interventions and working closely with national governments and a wide range of partners to reach out-of-school girls.

At the same time, we are undertaking global and country-level advocacy and communications campaigns to raise public expectation, mobilize political action and encourage financial support.

The lessons learned over the next three years will be applied to accelerating girls' education in other countries, until all the world's children, girls as well as boys, can exercise their right to a quality education.

Through the private sector, UNICEF is giving an added push to girls' enrolment. In the long run, such efforts are expected to yield positive gains towards women empowerment, poverty alleviation and balanced economic growth.

Existing programmes, including those carried out with the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United States Agency for International Development (USAID) and the World Bank, will be complemented and strengthened. So too, will existing partnerships, in the interest of speeding up progress for girls.

Information on a rights-based approach has been adapted from:

- UNICEF Canada, *Children's Rights*, CIDA, Continuous Learning Human Resources, December 2001.
- World Health Organization, *25 Questions & Answers on Health & Human Rights*, Health & Human Rights Publication Series, Issue No. 1, July 2002.
- Rios-Kohn, Rebecca, A Review of a UNICEF Country Programme, *Based on Human Rights: The Case of Peru*, UNICEF, November 2001.
- Institute for Child Rights & Interagency Coalition on AIDS and Development, *Filling the Gaps: Using a Rights-Based Approach to Address HIV/AIDS and its Affects on South African Children, Youth and Families*, Care and Support Guidelines, 2001.
- UNICEF. (2004). What are UNICEF strategies for addressing girls' education? [http://www.unicef.org/girlseducation/index\\_strategies.html](http://www.unicef.org/girlseducation/index_strategies.html) .
- UNHCR website, <http://www.unhcr.ch/development/approaches-04.html>

## Worksheet 6: Applying a Rights-Based Approach to the Issue of Education of Roma Girls

### Instructions

1. Begin your discussion by determining some of the effects of lack of access to education on Roma girls.
2. Then determine a possible **rights-based response**. List examples of actions to be taken.

Remember that when applying a rights-based approach it is important to:

- Use as the foundation the basic principles, which include equality and equity, accountability, empowerment and participation.
- Use the measures for protection laid out in international agreements covenants and declarations and incorporating them into plans, policies and programs with the overall aim to realize all human rights for all people

A suggested format to record the information from your discussion is provided below. Use a separate flipchart for each column.

Effects of lack of access include to basic education on Roma girls:	A Rights-based response to this issue should include:
<p>Examples:</p> <ul style="list-style-type: none"> <li>- Early marriage and child bearing</li> <li>- Increased health risks</li> <li>- Poverty</li> <li>- Sense of powerlessness</li> <li>...</li> </ul>	<p>Examples:</p> <ul style="list-style-type: none"> <li>- Direct link to rights</li> <li>- Increased level of accountability</li> <li>- Move from dependency to empowerment</li> <li>...</li> </ul>

# Day 3: Wednesday, July 7

## Module 3 – International Standards for the Protection of Roma Rights

8:30-9:00	Recap of Day 2	
9.00 – 9.30	Activity 1	International Instruments: Advantages and Limitations
9.30 – 10.45	Activity 2	Overview of International Instruments: Presentation and Discussion
10:45 – 11:15	Break	
11:15 – 12:15	Activity 3	Working with International Instruments
12:15 – 13:30	Lunch	
13:30 – 15:00	Activity 3	Working with International Instruments cont'd
15:00 – 15:30	Break	

## Module 4 – Protection of Roma Rights at the Domestic Level

15:30 – 17:00	Activity 1	EU Race Equality Directive
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# Module 3

## International Standards for the Protection of Roma Rights

# 3

### Objectives

- To explore the advantages and limitations of using international human rights instruments for the protection of Roma rights and the promotion of diversity
- To practice using relevant international instruments and mechanisms to address Roma rights issues

## Activity 1 International Instruments: Advantages and Limitations

### Objective

To explore the advantages and limitations of using international instruments for the protection of Roma rights.

### Time

30 min

### Materials

- 2 strips of paper for each participant (20 cm by 10 cm)
- **Worksheet 7: Advantages and Limitations of International Instruments**
- Large felt markers, at least 1 for every 2 participants

### Description

This brief brainstorming activity gives participants an opportunity to consider their existing knowledge of international instruments in preparation for the next activities.

This activity is divided into 2 parts.

In **Part A**, participants list their ideas about the advantages and limitations of the international instruments (See **Worksheet 7**).

In **Part B**, a resource person leads a large group discussion.

10 min

#### Part A Individual Work

1. Based on your knowledge and experience, state one **Advantage** and one **Limitation** of using international instruments to address Roma rights in your country.
2. The facilitator will provide you with 2 strips of paper. Label one card (**A**) – for **Advantage** and the other card (**L**) for **Limitation**. Write your ideas in point form, on the appropriate card.
3. Once you have finished, paste your cards on the flipchart version of **Worksheet 7**.



*Act. 1 cont'd*

**20 min**

**Part B Large Group Discussion**

A resource person leads a discussion on the ideas presented by the participants.

**End of Activity** ■

## Worksheet 7: Advantages and Limitations of International Instruments

**ADVANTAGES** of using international instruments to address Roma rights and diversity issues.

**LIMITATIONS** of using international instruments to address Roma rights and diversity issues.



## Activity 2 Overview of International Instruments: Presentation and Discussion

### Objective

To provide an overview of international instruments that contain minority-specific rights and provisions for promoting diversity.

### Time

1 hr 15 min

### Materials

- The Framework Convention for the Protection of the Rights of National Minorities (FCNM) (1995) (**Appendix 2**)
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (1992) (**Appendix 4**)

### Description

This activity is divided into two parts.

In **Part A**, a resource person will give a presentation.

In **Part B**, the resource person will conduct a group discussion and answer questions.

45 min

#### **Part A Presentation**

A resource person discusses the existing framework at the international level for addressing violations of Roma rights.

The resource person will briefly discuss:

- The Framework Convention for the Protection of the Rights of National Minorities (FCNM)
- Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (overview of the 9 principles)
- Five international human rights treaties that contain minority-specific rights and provisions for promoting diversity
- Obligations of States for the protection of minority rights in Europe



*Act. 2 cont'd*

**30 min**

**Part B**

The presentation will be followed by a question and answer period.

**End of Activity** ■

## Activity 3 Working with International Instruments

### Objective

To practice using relevant international instruments to address issues of Roma rights.

### Time

3 hours

### Materials

- **Worksheet 8: Working with International Instruments**
- List of the human rights problems/issues affecting Roma that were identified in Module 2, Activity 1
- The Framework Convention for the Protection of the Rights of National Minorities (FCNM) (1995) (**Appendix 2**)
- Explanatory note on the FCNM (**Appendix 3**)
- **Reference Sheet 6: International Complaints Mechanisms Available to All Countries**
- “Info Packs” on international instruments (**Appendix 5**):
  - International Covenant on Civil and Political Rights (ICCPR)
  - International Covenant on Economic, Social and Cultural Rights (ICESCR)
  - International Convention on the Elimination of all Forms of Racial Discrimination (CERD)
  - Convention on the Rights of the Child (CRC)
  - Convention on the Elimination of all Forms of Discrimination against Women (CEDAW)

### Description

This activity is divided into 3 parts.

In **Part A**, participants will work in small groups to prepare a presentation on the application of international standards to a particular Roma rights issue.



*Act. 3 cont'd*

In **Part B**, participants will present the results of their discussion to the larger group.

In **Part C**, the resource person will give a presentation and answer questions.

**1 hr 30 min**

**Part A Small Group Work**

1. The facilitator divides participants into small groups and assigns to each group, one (1) of the issues identified in Module 2, Activity 1.
2. Using the complete texts of the instruments, the overview of the relevant articles, and the experience of the members of the group, examine each of the 6 international instruments (the Declaration on Minority Rights, ICESCR, ICCPR, CEDAW, CERD, and CRC) to identify the relevant articles which address the human rights issue assigned to your group. You may want to divide into pairs and work on different instruments or work as a group.
3. Record your answers on **Worksheet 8**.
4. Choose a reporter to present the results of your discussion in **Part B**.

**1 hr**

**Part B Group Presentations and Discussions**

The facilitator reconvenes the whole group. Each group has 10 minutes to present. (30 min)

A resource person will comment and elaborate on the information provided by each group. (30 min)

**1 hr**

**Part C Discussion of Human Rights Mechanisms**

The resource person presents information to the participants on the subject of relevant human rights mechanisms including:

- Individual complaints mechanisms under various treaty bodies
- Special Rapporteurs
- Working Groups of the Human Rights Commission
- The “1503” Procedure

The resource person answers questions from the group.

**End of Activity** ■

## Worksheet 8: Working With International Instruments

ISSUE:					
FCNM	ICCPR	ICESCR	CEDAW	CRC	CERD

## Reference Sheet 6: International Complaints Mechanisms Available to All Countries

International Complaints Mechanisms Available to All Countries			
Mechanism	Who can submit	Special considerations	Comments
<b>Special Rapporteurs Representatives, Experts</b>	Individuals, groups and NGOs can submit	Must fall within the mandate of the SR	Responses may be immediate
<b>Working groups of the Commission on Human Rights</b>			
- Arbitrary Detention -	Individuals, NGOs, witnesses and families of detainees can submit	The detention must be arbitrary	Must be a violation by the State
- Disappearances	Relatives of missing persons, NGOs on behalf of missing persons can submit	Individuals must be clearly identified	Must be a violation by the State
- "1503" Procedure	Individuals and groups can submit	Must be a consistent pattern of gross and reliably attested violations of human rights	Must exhaust domestic remedies and cannot be an individual complaint if State has ratified the relevant international instrument <u>and</u> accepted the complaints procedure
<b>Commission on the Status of Women</b>	Individuals and NGOs may submit	Must be a consistent pattern of reliably attested injustice and indiscriminatory	Makes recommendations to ECOSOC

		practices against women	
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*Reference Sheet 6 cont'd*

<b>Individual Complaints Mechanisms Under Treaty Bodies</b>		
Available only to those countries which have ratified the treaty and the individual complaints procedure under the treaty		
ICCPR	Individuals and representatives of individuals can submit	Must exhaust domestic remedies
CERD	Individuals and groups can submit	
CEDAW	Individuals and groups can submit	
CAT	Individuals and representatives of individuals can submit	
CMW	Individuals and representatives of individuals can submit	

# Module 4

## Protection of Roma Rights at the Domestic Level



### Objectives

- To explore the EU Race Equality Directive and its utility in addressing Roma Rights issues
- To examine the EU Anti-Discrimination Legislation and how it can be used to protect and promote the rights of Roma



## Activity 1 The EU Race Equality Directive: Presentation

### Objective

To explore the EU Race Equality Directive and its utility in addressing Roma Rights issues in member states.

### Time

1 hr 30 min

### Materials

- EU Race Equality Directive

### Description

A resource person will discuss the EU Race Equality Directive and its implications for the protection and promotion of Roma Rights in EU member states.

End of Activity ■

# Day 4: Thursday, July 8

## Module 4 – Protection of Roma Rights at the Domestic Level cont'd

- |               |                |   |
|---------------|----------------|---|
| 8:30-9:00     | Recap of Day 3 |   |
| 9:00 – 10:30  | Activity 2     | Anti-Discrimination Legislation within the EU |
| 10:30 – 11:00 | Break          |   |
| 11.00 – 12:00 | Activity 3     | Working with Hate Speech Legislation          |
| 12:00 – 13:30 | Lunch          |   |

## Module 5 – Debating Human Rights

- |               |          |                       |
|---------------|----------|-----------------------|
| 13:30 – 17:00 | Activity | Debating Human Rights |
|---------------|----------|-----------------------|

## Activity 2 Anti-Discrimination Legislation within the EU

### Objective

To examine the EU Anti-Discrimination Legislation and how it can be used to protect and promote the rights of Roma

### Time

1 hr 30 min

### Materials

- EU Anti-Discrimination Legislation
- **Worksheet 9: Implementing EU Anti-Discrimination Legislation to Protect and Promote the Rights of Roma**

### Description

This activity is divided into 2 parts.

In **Part A**, participants work in small groups to review EU Anti-Discrimination Legislation.

In **Part B**, a resource person conducts a large group discussion focusing the implementation of the EU Anti-Discrimination Legislation.

### 30 min

#### **Part A Work in Small Groups**

1. The facilitator divides participants into small groups and assigns to each group one (1) of the issues identified in *Module 2, Activity 1*.
2. Together with the members of your group determine the applicability of the EU Anti-Discrimination Legislation for addressing the Roma rights issue assigned to your group.
3. Record the results of your discussion on **Worksheet 9**.



*Act. 2 cont'd*

**1 hr**

**Part B Synthesis and Discussion**

A resource person begins by going over each of the issues and asking the groups to explain how the legislation could be used to address the issue assigned to their group. Participants should also provide examples of existing national legislation or policy.

The resource person then, comments and provides additional examples from across the region

**End of Activity** ■

## Worksheet 9: Implementing EU Anti-Discrimination Legislation to Protect and Promote the Rights of Roma

Issues identified in Module 2, Activity 1	Country	Relevant provisions in the EU legislation	National provisions

## **Activity 3 Working with Hate Speech Legislation**

### **Objective**

To examine the use of hate speech legislation for the protection of Roma rights.

### **Time**

1 hr

### **Materials**

Hate Speech Legislation

### **Description**

There will be a presentation by a resource person.

**End of Activity** ■

# Module 5

## Debating Human Rights

# 5

### Objective

- To develop skills to effectively debate human rights issues

## Activity 1 Fundamentals of Effective Debating Skills – Presentation and Discussion

### Objective

To explore some fundamentals aspects of effective debating skills.

### Time

45 min

### Materials

**Reference Sheet 7: Guidelines for Effective Debating**

### Description

A resource person gives an overview of effective debating skills. He/she will briefly discuss:

- How to conduct research prior to a debate
- How to organize a debate and prepare effective arguments
- How to prepare evidence
- How to prepare counter-arguments

Participants are encouraged to ask questions and make comments using examples from their own experience.

**End of Activity** ■



## Reference Sheet 7: Guidelines for Effective Debating

Whether or not you are involved in Court Room proceedings, possessing effective debating skills is invaluable to your work in promoting and protecting human rights. Unfortunately, even though most individuals have solid ideas and opinions on various issues, many are unable to express themselves eloquently with confidence and conviction. Therefore, ongoing development of your communication/ debating skills will only increase your skills and confidence.

Not only is it important to have the ability to articulate your opinions in an eloquent and effective manner, you must also attempt to base your ideas on hard research and fact. To be an effective debater you must know how to prepare for a formal debate, as well as the proper structure so that you can deliver all parts of it successfully. Review the steps below and think about how you would go about doing each of these procedures.

1. **Research your topic** by focusing on the main subtopics of the debate. This will help you direct your research and organize your debate. To get started, brainstorm some key questions you would like to focus the debate on. A debate on "Segregated Schools" might use some of the following questions, for example:

- What kinds of opinions do parents with children in segregated schools have on the issue?
- What particular problems are manifesting in segregated school for Roma?
- What are the views of government and/or school officials in relation to segregated schools?

Collect enough arguments and evidence that is relevant and current to support your side of the debate.

2. **Organize your debate** so that there is a logical pattern to it. Decide who on your team is doing what part and talking about what topic.
3. **Prepare effective arguments** to support your side of the debate. Make your arguments clear, concise, and persuasive. They should also be relevant to the concerns and feelings of your audience.

4. **Prepare evidence** to illustrate and clarify your arguments. These might be quotations, statistics, case studies, or even simple charts, pictures, or overheads.
5. **Prepare counter arguments** for the rebuttal. Try to anticipate the arguments of your opponents and think of ways to disprove or weaken them.
6. **Practice your debate** in front of friends or family so that you are convincing, clear and enthusiastic. To do this you will have to:
  - Learn your arguments so that you can say them in a persuasive manner. Do not read your notes as this suggests you do not know what you are talking about. Only refer to your notes as clues or to give exact quotations or statistics.
  - Only use words your audience will understand or that you explain.
  - Be enthusiastic and confident. Say, "We will prove without any doubt ..." rather than "We are suppose to argue ..." or "I think, maybe ..."  
You will not convince your audience if you do not sound convinced yourself.

*Adapted from McGraw-Hill Ryerson, 2004,  
<http://www.mcgrawhill.ca/school/subjects>*

## Activity 2 Debate Practice – “Hate Crimes Legislation as a National Provision for Protecting Roma Rights”

### Objective

To debate two opposing positions on the effectiveness of Hate Crimes Legislation to protect human rights of Roma, as an exercise to improve participants’ debating skills.

### Time

2 hrs 15 min

### Materials

- **Reference Sheet 8: Hate Crimes Legislation - A Backgrounder**
- **Reference Sheet 9: Arguments FOR**
- **Reference Sheet 10: Arguments AGAINST**
- **Worksheet 10: Debating Hate Crimes Legislation - Notes**

### Description

This activity is divided into four parts.

In **Part A**, you will read and discuss text on the topic of the debate.

In **Part B**, you will prepare arguments for the debate.

In **Part C**, you will engage in the debate.

In **Part D**, you will debrief the activity.



*Act. 2 cont'd*

**45 min**

**Part A**

The text provided on the following page is a description of the context in which Hate Crimes Legislation has arisen. It also briefly summarizes the arguments for and against enacting Hate Crimes Legislation.

1. Read the text.
2. Then discuss the arguments presented for and against enacting Hate Crimes Legislation for protecting and promoting human rights.

**30 min**

**Part B Work in a Group**

You will now prepare your arguments and then engage in a debate with the other group on the topic below:

**Enacting Hate Crimes Legislation is a useful way to promote and protect the human rights of Roma and other minorities.**

1. Your facilitator begins by assigning you to one of two groups:
  - **Group 1 - For** will argue in favour of enacting Hates Crimes Legislation as an effective means for protecting human rights
  - **Group 2 - Against** will argue against enacting Hates Crimes Legislation as an effective means for protecting human rights
2. Your facilitator then explains the debate format.
3. You then turn to the appropriate page for your group and prepare your arguments for the debate. (25 min)

**45 min**

**Part C**

Carry out the debate following the format described on the following page. Use **Worksheet 10** during the debate to take notes.

**15 min**

**Part D**

The facilitator leads a discussion on the use of debate as a technique to analyze Roma rights.

**End of Activity** ■

## Debate Format

### Part I

5 min

#### **Opening Statement: Group 1 - For**

Group 1 **For**, presents its main arguments.

Group 2 **Against**, listens and group members prepare challenge questions.

8 min

#### **Challenge Questions: Group 2 to Group 1**

Group 2 **Against**, asks challenge questions.

Group 1 **For**, responds.

### Part II

5 min

#### **Opening Statement: Group 2 - Against**

Group 2 **Against**, presents its main arguments.

Group 1 **For**, listens and group members prepare challenge questions.

8 min

#### **Challenge Questions: Group 1 to Group 2**

Group 1 **For**, asks challenge questions.

Group 2 **Against**, responds.

8 min

#### **Preparation Break**

Each team prepares its closing statement keeping in mind the challenges and the main arguments of the other team.

### Part III

2.5 min

#### **Closing Statement Group 1- For**

Group 1 **For**, presents its last appeal.

2.5 min

#### **Closing Statement Group 2 -Against**

Group 2 **Against**, presents its last appeal.

## Reference Sheet 8: Hates Crimes Legislation – A Backgrounder

Crimes against minority groups, or between different groups of people, are probably as old as humanity itself. Human history is filled with accounts of genocide, and human rights violations motivated by the race, ethnicity, gender, religion, and sexual orientation of the victim. However, efforts to enact legislation to impose heavier penalties for crimes motivated by hate are a relatively new phenomenon in a number of countries.

One of the key conflicts in enacting such laws is whether or not it is appropriate to penalize someone because of their beliefs and motives. Critics of hate crimes legislation argue that it is perfectly appropriate to criminalize acts of violence, but not appropriate to add additional punishments for a person's thoughts or speech.

Another problem associated with hate crime proposals is the difficulty of determining which groups are to be "protected." While some countries have laws adding penalties for crimes motivated by acts against ethnic or religious minorities, most countries do not have special penalties for crimes committed against people for their gender or a different sexual orientation. It is also possible to conceive of other identities based on group affiliation, such as political party, occupation, or social status. Acts of violence against the poor, for example, could also be considered a hate crime. As more groups are defined as "protected" the distinctiveness of the penalties becomes lessened.

Proponents of hate crimes legislation are quick to point out, however, that the most egregious hate crimes against minority groups are often part of organized social movements or an extension of an ideology of hate that permeates entire segments of a society. Strong penalties are necessary to indicate the intensity of government or societal condemnation of such crimes.

(Source: International Debate Education Association, 2004)

## Reference Sheet 9: Material for Group 1 – Arguments *FOR*

Your group will argue **in favour of** enacting Hates Crimes Legislation as a means for protecting human rights.

Prepare a 5-minute opening statement in which you present your main argument for the enactment of Hates Crimes Legislation as a means for promoting and protecting human rights of Roma and other minorities. You can use the text below to help you formulate your arguments. Also, think about possible arguments that the other group (“Against”) might use and develop counter-arguments.

1. Crimes motivated by hatred against a racial, ethnic, religious, or other group are deserving of more punishment than acts of violence not motivated by such hatred. Added punishment for these crimes has the potential to deter these acts. While some hate crimes may be isolated incidents, many are perpetuated by groups of people (sometimes organizations) whose goal is intimidation. Stronger penalties would destabilize such movements.
2. The fear of hate crimes significantly infringes upon the ability of minority groups to live a normal life. Their freedom of expression and group association is limited when they fear such expression, or simply being in public, puts their lives at risk. The government has an obligation to protect minority groups from persecution to ensure that they may be full and productive members of society.
3. Policies opposing hate crimes have the potential to reshape negative societal attitudes, breaking down stereotypes and building understanding. When a government or society finally commits to a position that says acts of hate are unacceptable, people holding these negative beliefs are urged to reconsider their values
4. International law, including various conventions related to the protection of human rights, would suggest a need for action by states to better ensure the safety of minority groups.
5. Hate crimes policies, for certain countries (namely the United States and the United Kingdom) are critical to demonstrating moral consistency with regard to human rights. Some nations routinely criticize other nations for human rights abuses or their failure to curb sectarian violence. To avoid hypocrisy these countries should make every attempt to afford their own minority groups the same protection they would want other governments to provide minorities in their countries.

(Source: International Debate Education Association, 2004)

## Reference Sheet 10: Material for Group 2 – Arguments *AGAINST*

Your group will argue **against** enacting Hates Crimes Legislation as a means for protecting human rights.

Prepare a 5-minute opening statement in which you present your main argument against the enactment of Hates Crimes Legislation as a means for promoting and protecting human rights. You can use the text below to help you formulate your arguments. Also, think about possible arguments that the other group (“Against”) might use and develop counter-arguments.

1. All forms of violent crime, whether they are murders, rapes, or beatings are an expression of hatred toward another human being. To add more punishment to a crime because it represents a particular kind of hate is to unfairly distinguish between different violent acts and trivialize those violent acts that do not appear to be motivated by hate. Such a distinction is also very hard to assess in a trial; there is a danger of unjustly branding someone as bigoted and punishing them excessively, e.g. for their involvement in a bar fight where the victim coincidentally belonged to a minority group.
2. Hate crimes legislation may actually do more to chill free speech and association than the threat of the acts themselves. Such legislation essentially penalizes the thoughts, emotions, or motives behind an act. The act itself, if illegal, would already be worthy of punishment. Such policies set a precedent for punishing individuals who hold beliefs the government, or the majority of people do not believe. The potential exists for such precedents to later be used against the very minority interests the government seeks to protect in the present.
3. This view may be overly idealistic. Often people who hold racist views, or are committed to other ideologies of hate, are unwilling or unable to change their views. Moreover, the people who actually commit violent hate crimes may only represent a minority of those with feelings of hatred. Hate crime laws may actually make people who perceive themselves to be in the majority feel threatened, increasing their feelings of hate.
4. There is still substantial disagreement world wide about what constitutes a "human right". These differences are often culturally connected. Each state should be left to itself to decide what protections are appropriate for its people.
5. Generally speaking the types of hate crimes perpetuated in these countries do not rise to the severity of human rights abuses and sectarian violence observed in the countries routinely criticized. Moreover, these hate crimes are generally individual acts, or the acts of fringe groups and do not represent the view or policies of their respective governments. In the countries routinely accused of major human rights violations there is often government support or tacit acceptance of these acts.



(Source: International Debate Education Association, 2004)

## Worksheet 10: Debating Hates Crimes Legislation – Notes

Part 1: Opening Statement / Challenge questions

Part 2: Opening Statement / Challenge questions

Part 3: Closing Statement

# Day 5: Friday, July 9

8:30-8:45      Recap of Day 4

## Module 6 – The European Convention on Human Rights

8:45 – 10:00	Activity 1	The European Court: Presentation and Discussion
10:00 – 10:30	Break	
10:30 – 12:30	Activity 2	The European Court – Working with the European Convention on Human Rights
12:30 – 14:00	Lunch	
14:00 – 15:30	Activity 3	Moot Court
15:30 – 16:00	Break	
16:00 – 17:30		Moot Court cont'd
17:30 – 17:45		Evaluation

# Module 6

## The European Convention on Human Rights

# 6

### Objectives

- To explore how the European Court and the European Convention on Human Rights can be used to protect and promote the rights of Roma.
- To examine how to strategically litigate at the European Court on cases where human rights have been violated.

## Activity 1 The European Court: Presentation and Discussion

### Objective

To explore the features (including advantages and limitations) of the European Court for protecting Roma rights and for promoting diversity.

### Time

1 hr 15 min

### Materials

**Reference Sheet 11: The European Convention on Human Rights**

### Description

This activity is divided into two parts.

In **Part A**, a resource person will give a presentation.

In **Part B**, there will be a question and answer period.

**45 min**

#### **Part A Presentation**

A resource person presents the European Convention on Human Rights and the European Court of Human Rights, focusing on how they can be used to address Roma Rights issues.

Some of the issues that will be discussed include:

- United Nations Council of Europe
- Rights protected by the European Convention on Human Rights versus those not protected (i.e., the focus on civil and political rights)
- Enforceable versus unenforceable rights
- Signatories to the Convention
- Repercussions for not abiding by a European Court decision
- Case Examples



*Act. 1 cont'd*

- Absolute versus Qualified Rights
- Positive versus Negative Rights
- Vertical versus Horizontal rights
- Articles of the Convention
- 2005- Decade of the Roma

**30 min**

**Part B Group Discussion**

Participants will be encouraged to participate and ask questions to the resource person.

**End of Activity** ■

## Reference Sheet 11: Summary of the European Convention on Human Rights

The European Convention on Human Rights (Unofficial summary)

Under the Convention, which was signed in Rome on 4 November 1950 and came into force in 1953, the States Parties guarantee the basic civil and political rights of a state governed by the rule of law, not only to their own citizens but to all persons "within their jurisdiction". States or individuals can bring a complaint before the Court set up by the Convention. However, the Convention is not necessarily incorporated into each state's national legal system. The theory of international law whereby human rights have a fundamental character placing them above the legislation and practices of sovereign states is thus brought into practice.

### The rights guaranteed

- **The right to life (Article 2)** Article 2 protects the individual against death inflicted arbitrarily by the State; but it does not exclude the use of the death penalty if carried out in accordance with the law. Protocol No. 6, abolishing the death penalty in time of peace, was adopted in 1985. A new protocol, abolishing death penalty is being prepared.
- **The right to liberty and security of person (Article 5)** Article 5 guarantees people physical liberty by protecting them from arbitrary arrest and detention and according them certain basic procedural rights. Its provisions are extended by Article 1 of Protocol No. 4 which prohibits imprisonment for debt.
- **The right to a fair trial in civil and criminal matters (Article 6)** This right is complemented by Article 13, which ensures the right to an effective remedy before a national authority. Article 6 includes the condition that the proceedings must take place within a "reasonable time". Complaints of violations of this provision are those most frequently brought by applicants. The notion of a fair trial is completed by the principle that criminal law should not be retroactive (Article 7), the right of appeal in criminal cases, the right to compensation for wrongful conviction, and the right not to be tried or punished twice for the same offence (Articles 2, 3 and 4 of Protocol No. 7).
- **Respect for private and family life, home and correspondence (Article 8),** which may be linked to the right to marry and found a family (Article 12).

- **The equality of rights and responsibilities of spouses during marriage (Article 5 of Protocol No. 7).**
- **The right to freedom of expression (including freedom of the press) (Article 10)** The requirements of this basic right are a logical development of the rights guaranteed by Article 9 (freedom of thought, conscience and religion).
- **Freedom of peaceful assembly and association (Article 11).**
- **The right to peaceful enjoyment of possessions (Article 1 of Protocol No. 1).**
- **The right to education (Article 2 of Protocol No. 1).**
- **The right to free elections (Article 3 of Protocol No. 1).**

### **What is prohibited**

- Torture and inhuman or degrading treatment and punishment (Article 3).
- Slavery, servitude and forced labour (Article 4).
- Discrimination in the enjoyment of rights and freedoms guaranteed by the Convention (Article 14).
- Expulsion of a state's own nationals or denying them entry, and the collective expulsion of aliens. (Articles 3 and 4 of Protocol No. 4)
- Procedural safeguards also protect foreigners under threat of expulsion from a country (Article 1 of Protocol No. 7).

The Convention provides for a European Court of Human Rights to deal with individuals' petitions and inter-state cases. The Judges are entirely independent and are elected by the Parliamentary Assembly.

The Committee of Ministers of the Council of Europe supervises the execution of the judgment where a violation has been found, ensuring that the state takes appropriate remedial action, for example by means of new administrative procedures or by legislation

Source: Council of Europe Directorate General of Human Rights  
[www.humanrights.coe.int](http://www.humanrights.coe.int)



## Activity 2 The European Court – Working with the European Convention on Human Rights

### Objective

To practice using the anti-discrimination protections enshrined in the European Convention to address discrimination of Roma and other minorities.

### Time

2 hours

### Materials

- **Reference Sheet 12: Case Study of Roma Rights Violations for Consideration Under the European Convention on Human Rights**
- **Worksheet 11: Applying The European Convention on Human to the Case Study**

### Description

This activity is divided into 2 parts.

In **Part A**, participants work in small groups to prepare a presentation on the application of the European Convention on Human Rights to a particular Roma case.

In **Part B**, participants present the results of their discussion to the larger group.

1 hr

#### Part A Small Group Work

1. The facilitator divides participants into small groups and assigns to each group one of the following case studies (**Reference Sheet 12**).
2. Using the text from the European Convention on Human Rights, and the experience of the members of the group, identify the relevant articles that address the Roma rights case study assigned to your group. Record your answers on **Worksheet 11**.
3. Choose a reporter to present the results of your discussion in **Part B**.



*Act. 2 cont'd*

**1 hr**

**Part B Group Presentations and Discussions**

The facilitator reconvenes the whole group. Each group has 10 minutes to present. (40 min)

A resource person will comment and elaborate on the information provided by each group. (20 min)

**End of Activity** ■

## Reference Sheet 12: Case Study of Roma Rights Violations for Consideration Under the European Convention on Human Rights

### Case Study: Romani Man Shot by Police in Hungary

On February 19, 2003, Debrecen police shot Mr. S.B., a 19-year-old Romani youth, in the abdomen in Hajduhadhaz in northeastern Hungary, according to the Budapest-based Roma Press Center (RSK) of February 23, 2003. The RSK reported that, according to the Hajdu-Bihar County Police Department, two officers attempted to arrest Mr. S.B., suspected of theft, but upon entering his home, Mr. S.B. allegedly attacked the officers with an axe. According to the police report, as reported by RSK, one of the officers then shot Mr. S.B. in self-defence. Mr. S.B. fled the scene, but was captured soon thereafter and detained. However, RSK reported that according to Mr. Attila Lakatos, Mr. S.B.'s neighbour, Mr. S.B. was handcuffed when he ran out of his home, but had not yet been shot. According to Mr. Lakatos, the officers ran out of the house and viciously beat Mr. S.B. in the street, and then shot him in the abdomen. The officer also reportedly aimed his gun at Roma from the neighbourhood who had arrived at the scene. According to RSK, Mr. S.B. was treated in hospital for the gunshot wound and upon recovery, will stand trial for assaulting an officer and attempted homicide against a state official. On April 14, 2003, RSK informed the ERRRC that the Hajdu-Bihar County Police Department had performed an investigation into the actions of the officers and found that the shooting was legally justified. (ERRRC, RSK)

## Worksheet 11: Applying The European Convention on Human Rights to the Case Study

1. Analyze the events presented in the case study using a rights-based approach. Determine the specific rights issues, the victims and violators, the relevant articles of the European Convention on Human Rights needed to address the issues and the corresponding government obligations. Record your answers in the table below.
2. Throughout your discussion, you should consider the way in which human rights can be protected, respected, and fulfilled through State obligations, and whether these rights can be promoted through immediate implementation of strategies or through progressive realization.

Specific human rights issues	Victim/Violator	Relevant Articles of the European Convention on Human Rights	State obligations

## Activity 3 Moot Court

### Objective

To practice using the European System to address Roma rights issues.

### Time

3 hours

### Materials

Materials for the case preparation will be provided by the resource person.

### Description

Participants will take parting a Moot Court on a Roma Rights Case presented to the European Court.

End of Activity ■

# Day 6: Saturday, July 10

All day activity Meeting NGOs Working on Roma Rights

# Meeting NGOs Working on Roma Rights

## Time

All-Day Activity.

## Description

Participants will have the opportunity to visit NGOs who are working in the promotion and protection of Roma rights.

End of Activity ■

# Day 7: Sunday, July 11

Day off

Enjoy Yourself!



# Day 8: Monday, July 12

## Module 7 – Monitoring Respect for Roma Rights

8:30 – 8:45	Recap of Days 5 and 6	
8:45- 9:45	Activity 1	What does Human Rights Monitoring Involve?
9:45 – 11:15	Activity 2	Panel Presentation – “Principles of Human Rights Monitoring”
11:15 – 11:30	Break	
11:30 – 12:30	Activity 3	Fact-Finding and Roma Rights – Presentation and Discussion
12:30 – 13:30	Lunch	
13:30 – 15:30	Activity 4	Testing
15:30 – 16:00	Break	
16:00 – 17:00	Activity 4	Cont’d
17:00 – 17:30	Evaluation	

# Module 7

## Monitoring Respect for Roma Rights



### Objective

To examine the key components of effective monitoring

## Activity 1 What Does Human Rights Monitoring Involve?

### Objective

To examine the key components of effective monitoring.

### Time

1 hour

### Materials

- **Worksheet 12: The Monitoring Process**
- **Reference Sheet 13: What Monitoring Involves**

### Description

This activity is divided into two parts.

In **Part A**, you will work in a small group to discuss the human rights monitoring process.

In **Part B**, you will share your understanding with the larger group and reflect on the role of monitoring in human rights education.

**25 min**

#### **Part A Work in a Group**

*Human rights monitoring* involves systematically tracking activities and actions by institutions, organizations and government bodies to ensure compliance with human rights standards.

In order to gain an overview of the monitoring process, together with the members of your group discuss the questions below.

Questions to consider:

1. What are the purposes of monitoring?

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*Act. 1 cont'd*

2. Which organizations conduct monitoring activities on Roma rights issues on national, regional, and international levels?

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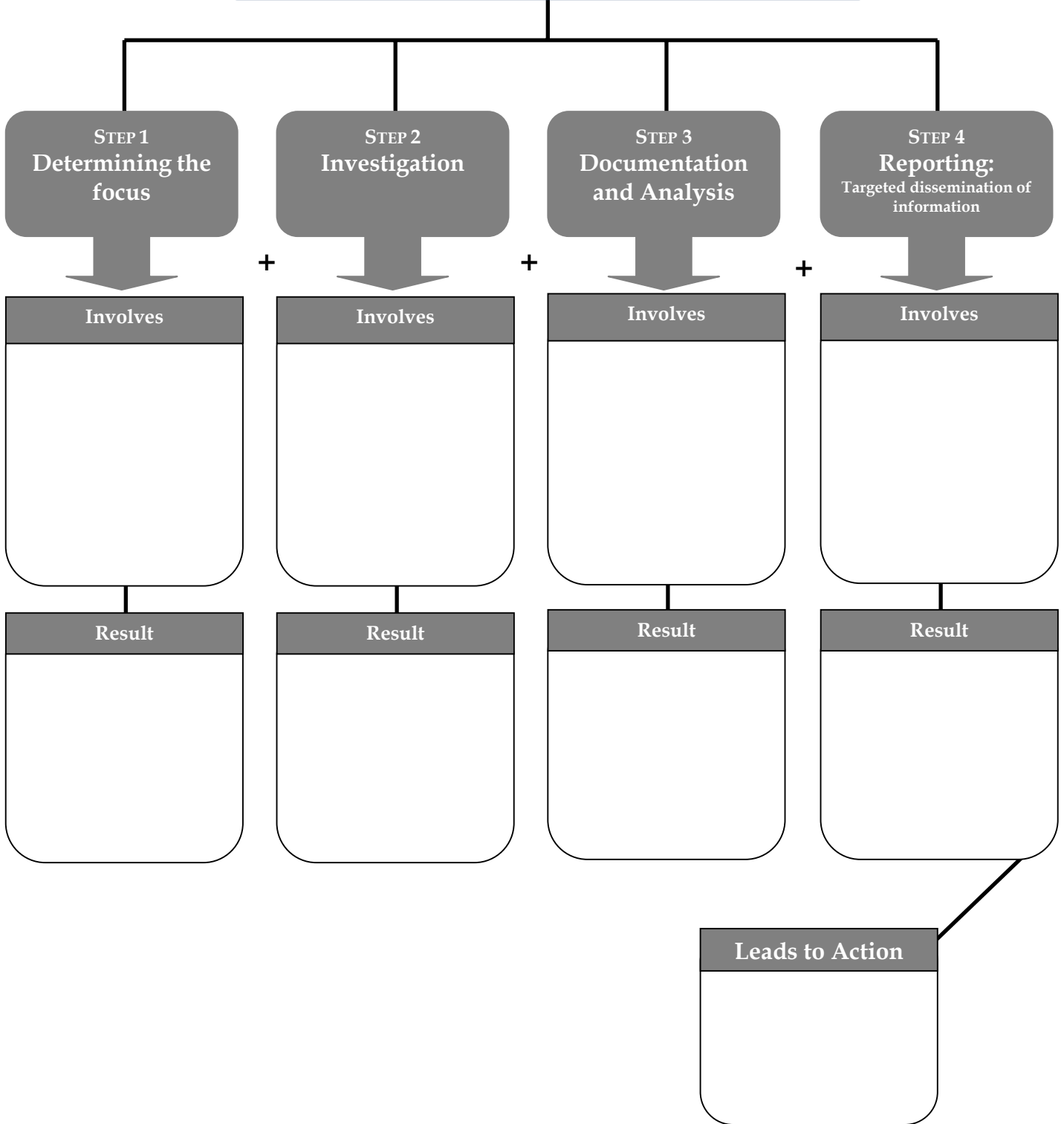
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3. Monitoring consists of four main steps: determining the focus, investigation, documentation, and reporting or dissemination of information. The diagram on **Worksheet 12** illustrates the process. What activities are involved for each step and what are the results of these activities? What types of action should monitoring lead to?

**Worksheet 12: The Monitoring Process**

**Monitoring Process**



*Act. 1 cont'd*

**35 min**

**Part B Class Discussion**

Share your understanding of monitoring with the larger group.

Then discuss the question below:

How can the process and results of monitoring activities serve to protect and educate about Roma rights? Refer to **Reference Sheet 13** for more information on different types of monitoring.

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**End of Activity** ■

## Reference Sheet 13: What Monitoring Involves

### Monitoring

Monitoring means the close observation of a certain situation or individual case to find out what is going on or what is going wrong in order to determine what further action needs to be taken.

**Human rights monitoring** involves systematically tracking activities and actions of institutions, organizations and government bodies to ensure compliance with human rights standards. Human rights monitoring includes gathering information about incidents, observing events (elections, trials, demonstrations, etc.), visiting sites such as places of detention and refugee camps, discussions with government authorities to obtain information and to pursue remedies and other immediate follow-up.

The **main purpose** of monitoring is to provide a basis for action in a certain situation or case.

Adapted from: Training Manual on Human Rights Monitoring, Professional Training Series No. 7. (2001). New York and Geneva: United Nations.

### Types of monitoring

Guzman and Verstappen identify two types of monitoring: **situation monitoring** and **case monitoring**. Under each kind, there can be various forms, as summarised below:

#### Situation monitoring

- Human rights violations
- Drafting and passing of legislation
- Implementation of laws and policies
- Establishment and progress of human rights institutions

#### Case monitoring

- Legal proceedings of a case
- Relief and rehabilitation services provided to a client
- Other forms of intervention in a case

**Situation monitoring** focuses on a situation in general. Many human rights groups produce reports that describe and analyse the occurrence of violations in a country. Aside from documentation of events, a situation report may also include an assessment of the progress of a country in terms of relevant human rights legislation and the performance of human rights institutions.

**Case monitoring** is victim-focused and victim-oriented. Case monitoring is consistent work for or on behalf of a client, whether an individual victim or a group of victims, such as in pursuing justice or in providing medical attention. Following and documenting the developments in the case of a client is an essential and integral part of casework.

Adapted from: Guzman, M., & Verstappen, B. (2001). What is Monitoring: Human Rights Monitoring and Documentation. Versoix, Switzerland: Human Rights Information and Documentation Systems, International (HURIDOCS).



## Activity 2 Presentation – “Effective Monitoring of Roma Rights”

### Objective

To explore the current monitoring activities of organizations that work in the area of Roma rights.

### Time

1 hr 30 min

### Materials

- **Reference Sheet 14: Fact-finding**

### Description

This activity will be a panel presentation.

The resource person will:

1. Provide an overview of the work of main human rights monitoring bodies (intergovernmental organization, governmental organizations and NGOs), explain their role and how they complement and balance each other’s work;
2. Discuss examples of effective monitoring strategies and activities from the work of their organization;
3. Give an overview of fact-finding in the area of minority rights (i.e., purpose, methods, guiding principles.
4. Explore how monitoring can serve to educate about human rights
5. Discuss the relationship between monitoring and advocacy.

A question and answer period will follow.

End of Activity ■

### Fact-finding

Fact-finding is a crucial task when you want to submit credible and reliable information to national or international mechanisms and/or to international organizations. The more accurate and useful the information, the greater the likelihood that it will have an impact and result in necessary changes to remedy the situation.

#### ***The purpose of fact-finding is to:***

- Determine the truth as accurately and completely as possible regarding alleged violations in order to monitor human rights practices of governments and/or other groups;
- Verify the facts first-hand and to make credible reports on alleged violations of human rights.

Once a violation has been identified, the next step is to conduct an investigation in order to collect and document the 'evidence'. This is done by carrying out fact-finding activities and carefully recording the findings (i.e., documentation).

#### ***Common methods of conducting fact-finding are:***

- Conducting investigation in the field for a limited period of time by skilled fact-finders including staff members of an organization;
- Placing trained field workers in an area for a longer period of time to collect and document information on violations;
- Sending a low-profile fact-finding delegation (mission) consisting of people from the local area;
- Sending a high-level delegation of well-known personalities in the country;
- Sending an international delegation (mission) composed mainly of foreign nationals;
- Organising non-governmental tribunals and commissions of inquiry;
- Conducting research studies, including surveys for the purpose of collecting data on the relevant rights.

***Some guiding principles for human rights fact-finders:***

- **Impartiality and accuracy**  
Fact-finding must be thorough, accurate and impartial. Ensure the **credibility** of information collected and disseminated by seeking direct evidence and higher level evidence. Assess the **truth** and **reliability** of the evidence gathered.
- **Using diverse sources of information**  
Locate and use as many sources of information as possible. Examine both the victim's (individual and communities) and the violators' versions of the events. Collect and evaluate all available evidence. This should include: records, papers and studies produced by academic or research institutions, reports by or interviews with NGOs and individuals.
- **Application of international human rights standards**  
Apply the Declaration and other relevant international human rights standards, as well as constitutional rights guarantees to help identify and define what information to collect, and to assess the information gathered.
- **Respect for all parties involved**  
All efforts should be carried out within an atmosphere of utmost respect for all those concerned and particular respect for the victims and their families. Minority issues are often very sensitive and care should be taken in this regard.

Adapted from: *The Protection of Minority Rights and Diversity: A Toolkit*, The Minority Rights Project, The International Centre for Ethnic Studies, 2001, Colombo, Sri Lanka

## Activity 3 Testing

### Objective

To explore an effective method for testing for discrimination

### Time

3 hrs

### Description

A resource person will explain and demonstrate a methodology for testing for discrimination.

End of Activity ■

# Day 9: Tuesday, July 13

## Module 8 – Promotion of Roma Rights Through Advocacy Work

9:00 – 9:15	Recap of Day 8	
9:15- 10:00	Activity 1	Human Rights Advocacy
10:00 – 12:30	Activity 2	Key Principles for Effective Advocacy
12:30 – 13:30	Lunch	
13:30 – 16:00	Activity 3	Organization of an Advocacy Campaign and Assessing the Efforts
16:00 – 16:30		Evaluation

# Module 8

## Promotion of Roma Rights Through Advocacy Work



### Objective

To explore effective advocacy strategies in the area of the protection and promotion of Roma rights.

## Activity 1 Human Rights Advocacy

### Objective

To explore the concept of human rights advocacy work and what it entails.

### Time

45 min

### Materials

- **Reference Sheet 15: A Perspective on Advocacy**

### Description

This activity is divided into 3 parts.

In **Part A**, you will work individually to review a text on human rights advocacy.

In **Part B**, discuss your experiences with human rights advocacy in a small group.

In **Part C**, each group will share some points from its discussions with the larger group.

**10 min**

#### **Part A Work Individually**

Read the text *A Perspective on Advocacy* provided on **Reference Sheet 15**, keeping in mind the work of your organization.



*Act. 1 cont'd*

**10 min**

**Part B Work in a Group**

In small groups, discuss your thoughts and experiences with human rights advocacy. Refer to the questions below to guide your discussion.

Questions for discussion:

1. Do you agree with the perspective on advocacy described in **Reference Sheet 15**? What does advocacy mean for you? Why is it necessary?
2. Has your organization carried out advocacy activities on a particular issue? Did your organization work alone on these activities or in conjunction with others?
3. What are some advocacy activities that you are aware of in your region? In your country?
4. What are some current issues in your region that could be effectively addressed through advocacy activities?
5. Which NGOs in your region could work together on these activities? Which other actors could be involved to move your agenda forward? Which sectors in your society can be mobilized and organized to support human rights advocacy?
6. How does advocacy contribute to human rights education?

**25 min**

**Part C Group Discussion**

Share some points from your group's discussion with the larger group.

**End of Activity** ■



### **Why is human rights advocacy necessary?**

The actions and policies of powerful national and international institutions often undermine the work of NGOs and grassroots organizations focused on problems of poverty, sustainable development, democratic rights and women's equality. Top-down government and international donor practices often limit the ability of marginalized populations to participate in public-decision making. In recent years, however, globalization, economic liberalization, structural adjustment and related privatization policies have strengthened the role of the market and tended to weaken the operations of the state and its ability to provide basic services.

A greater need and opportunity for advocacy emerges from these current circumstances and problems. Moreover, advocacy by NGOs and grassroots groups is critical if the state and the elites that exacerbate economic and political disparities are to be held in check and if less powerful groups do not wish to be excluded from public decision making.

### **What is advocacy?**

Advocacy can be defined as identifying and acting upon opportunities to influence and become involved in the policy decision-making process at national and international levels. Cohen et al (2001) define social justice advocacy as "the pursuit of influencing outcomes – including public-policy and resource-allocation decisions within political, economic, and social systems and institutions – that directly affect people's lives.

Advocacy consists of organized efforts and actions based on the reality of 'what is'." Citizen-initiated advocacy aims at highlighting critical issues that have been ignored and submerged, influencing public attitudes, and enacting and implementing laws and public policies. Advocacy consists of actions designed to draw a community's attention to an issue and to direct policy-makers to a solution.

Advocacy work begins once an investigation is completed and its findings released; indeed, the purpose of an investigation is to inform and support the broader advocacy strategy. Social, cultural, and legal change or transformation is the result of political actions brought about by the process of individual or collective conscientization (awakened consciousness). This leads to the change in power relationships between institutions and the people affected by their decisions, thereby changing the institutions themselves and making a clear improvement in people's lives. The policy process, that is, selecting one policy option from among several choices, is essentially a negotiation among various actors. Advocacy initiatives require political skills, namely mobilizing, organizing, communicating, and planning strategies.

**Sources:**

Cohen, D., de la Vega, R., & Watson, G. (2001). Advocacy for Social Justice: A Global Action and Reflection Guide. Bloomfield, CT: Kumarian Press.

International and Human Rights Watch. (1997). Women's human rights step by step: A practical guide to using international human rights law and mechanisms to defend women's human rights. Washington, DC: International and Human Rights Watch.

Schuler, M. and S. Kadirgamar-Rajasingham. (1995). Legal literacy, a tool for women's empowerment. New York: OEF International.

Miller, V. and J. Covey. (1997). Advocacy sourcebook: Frameworks for planning, action, and reflection. Boston, MA: Institute for Development Research.

## Activity 2 Effective Advocacy Strategies

### Objective

To identify effective advocacy strategies in the area of Roma and other minority rights protection and promotion.

### Time

2 hrs 30 min

### Materials

- **Reference Sheet 16: Target Sectors for Advocacy**
- **Worksheet 13: Effective Advocacy Initiatives**
- Small strips of paper (1 for each participant)

### Description

This activity is divided into 3 parts.

In **Part A**, the facilitator will present target sectors for advocacy, and determines the small groups for **Part B**.

In **Part B**, participants will work in small groups to discuss advocacy strategies aimed at different target sectors.

In **Part C**, participants will share the results of their discussions with the larger group.

30 min

#### **Part A Target Sectors for Advocacy**

1. The facilitator reviews possible target sectors for advocacy initiatives using **Reference Sheet 16**. He/She lists each of the target sectors on individual flipchart paper and posts them on the wall.
2. Keeping in mind the advocacy work of your organization, determine an advocacy initiative you would like to share with the group.
3. Write your example on a strip of paper. Remember to include your name.



*Act. 2 cont'd*

4. Post your example on the flipchart sheet for the relevant target sector.
5. Participants will form small groups according to their choice of sector for **Part B**.

**1 hr**

**Part B Work in Target Sector Groups**

The facilitator has participants form groups according to target sector.

Together with the members of your group, determine the “lessons learned” from your advocacy initiatives that you wish to share with the larger group in **Part C**.

1. Begin by having each member of the group first briefly describe his/her advocacy initiative. Use **Worksheet 13** to guide you. (15 min)
2. Prepare a 5-minute presentation about the results achieved, best practices and collective lessons learned in carrying advocacy initiatives aimed at your group’s target sector. Prepare a flipchart version of **Worksheet 13** for your presentation. Choose a reporter to present the results of your discussion in **Part B** (45 min).

**1 hr**

**Part C Presentations and Discussion**

1. Each group in turn presents their findings to the large group in a 5-minute presentation. (20 min)
2. A resource person comments on the initiatives presented focusing on lessons learned and highlighting effective strategies that can be used with the different target sectors.
3. Participants are encouraged to ask questions and comment on the different initiatives presented. (40 min)

**End of Activity** ■

## Reference Sheet 16: Target Sectors for Advocacy

Target Sectors	Areas where change can occur	Types of changes
<p><b>1. State / Government Sector</b></p> <ul style="list-style-type: none"> <li>• National               <ul style="list-style-type: none"> <li>- Executive</li> <li>- Agencies/Ministries</li> <li>- Legislative/Parliament</li> <li>- Military/ Police</li> <li>- Courts</li> <li>- Other</li> </ul> </li> <li>• Provincial/State Government</li> <li>• Local Government</li> <li>• International Bodies               <ul style="list-style-type: none"> <li>- UN</li> <li>- IMF/ World Bank</li> <li>- Multilateral Development Banks</li> <li>- Other</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Policies</li> <li>• Laws</li> <li>• Regulation of public institutions</li> <li>• Programs</li> <li>• Political Representation</li> <li>• Elections</li> </ul>	<ul style="list-style-type: none"> <li>• Structural reforms to promote transparency and increase access to justice by minorities</li> <li>• Changes in a law or policy to make it more effective, inclusive and fair</li> <li>• Changes in policy/law formulation or enforcement to create a more transparent, accountable and participatory decision-making process</li> <li>• Institutional reforms to ensure that law/policy are enforced/implemented fairly and effectively</li> <li>• Changes at different levels of government to ensure accountability               <ul style="list-style-type: none"> <li>- <i>Budgets need to be considered through all stages of planning to implementation.</i></li> </ul> </li> </ul> <p><i>i.e., <b>IMPACT</b>: Actions and impacts that advance human rights, foster more equitable sustainable development and promote greater voice and power of excluded populations in public decision-making (e.g. women, indigenous groups, the poor, and religious, racial or ethnic minorities, etc.)</i></p>

Target Sectors	Areas where change can occur	Types of changes
<p><b>2. Private Sector</b></p> <ul style="list-style-type: none"> <li>• Local</li> <li>• National</li> <li>• Multinational</li> </ul>	<ul style="list-style-type: none"> <li>• Policies</li> <li>• Programs</li> <li>• Practices</li> </ul>	<ul style="list-style-type: none"> <li>• Reforms in business practice and behaviour</li> <li>• Corporate policy that address minority rights issues</li> <li>• Training and monitoring to prevent recurrence of violations of minority rights</li> <li>• Dialogue and joint problem solving among government, civil society, and the private sector to address diverse interests and needs</li> <li>• Representation of minorities in the private sector <ul style="list-style-type: none"> <li>- <i>Budgets need to be considered through all stages of planning to implementation.</i></li> </ul> </li> </ul> <p><i>i.e., <u>IMPACT</u>: Support for change in policy, program, practices, behaviour, etc and socially responsible behaviour by local and multinational corporations.</i></p>

Target Sectors	Areas where change can occur	Types of changes
<p><b>3. Civil Society</b></p> <ul style="list-style-type: none"> <li>• NGOs</li> <li>• Membership Organizations</li> <li>• Community-based Organizations</li> <li>• Ally Organizations / Coalitions</li> <li>• Other</li> </ul>	<ul style="list-style-type: none"> <li>• Capacity, organization, accountability and power of NGOs and other groups in society</li> <li>• Level of involvement in decision-making process</li> <li>• Level of involvement in government programs and policies</li> <li>• Reputation and public opinion</li> </ul>	<ul style="list-style-type: none"> <li>• Better understanding of minority rights issues and the existing mechanisms to defend minority rights (through education and organising)</li> <li>• Citizens and groups engaged in constructive and critical dialogue with decision makers to promote accountability and transparency</li> <li>• Greater communication and dialogue with the public as well as minority and other groups</li> <li>• Creation and strengthening of networks and coalitions</li> <li>• Fostering inclusion and representing a broad range of constituencies while retaining political flexibility</li> </ul> <p style="text-align: center;">– <i>Budgets need to be considered through all stages of planning to implementation.</i></p> <p><i>i.e., IMPACT:</i> Strengthen and expand the capacity, organization, accountability, and power of NGOs and popular organization and increase knowledge, overall social reciprocity, trust and acceptance.</p>

Target Sectors	Areas where change can occur	Types of changes
<p><b>Political Space and Culture</b></p>	<p>Participation:</p> <ul style="list-style-type: none"> <li>• Political life</li> <li>• Social/Cultural life</li> <li>• Other</li> </ul>	<ul style="list-style-type: none"> <li>• Political, social and cultural participation of all disenfranchised individuals, minorities/groups in society</li> <li>• Expanded role of minorities in the formal political process (consultation, inclusion)</li> <li>• Governments, corporations, and civil society working together to address injustice, discrimination and poverty</li> <li>• Public processes and policies that promote democratic values and ensure that all sectors of society are represented in decision-making</li> <li>• Greater/better access to information</li> <li>• Greater public awareness of minority rights</li> <li>• Greater respect for differences and values among all sectors in society</li> </ul> <p><i>i.e., <u>IMPACT</u>:</i></p> <ul style="list-style-type: none"> <li>- <i>Political, social, and cultural legitimacy in society and respect for basic human rights</i></li> <li>- <i>Improved overall living conditions and opportunities for health, education and livelihood.</i></li> </ul>



Target Sectors	Areas where change can occur	Types of changes
<p><b>Individual</b></p>	<ul style="list-style-type: none"> <li>• Living Conditions / Opportunities</li> <li>• Attitudes / Awareness</li> <li>• Personal Relationships, etc. Physical, mental and emotional well-being of individual</li> </ul>	<ul style="list-style-type: none"> <li>• What material improvement can affect individuals as a result of the political reform process?</li> <li>• What kinds of skills, information, and experiences do citizens need to be confident, active and internalise their rights?</li> <li>• How can the public education component of advocacy initiatives encourage people to respect differences and to address discrimination?</li> </ul> <p><i>i.e., <b>IMPACT</b>: Improve overall living conditions and opportunities for health, education and livelihood.</i></p>

Taken from and adapted: Lisa VeneKlasen with Valerie Miller. *A New Weave of Power, People & Politics: The Action Guide for Advocacy and Citizen Participation* (Oklahoma City: World Neighbors, 2002). For more information see <http://www.justassociates.org/ActionGuide.htm>.

## Worksheet 13: Effective Advocacy Initiatives

Phases of an Advocacy Initiative	Your Advocacy Initiative
<p><b>a. The Issue</b></p> <ul style="list-style-type: none"> <li>• What was the issue addressed by your initiative?</li> <li>• Why did your organization select this particular issue?</li> <li>• What type of advocacy initiative did your organization do?</li> </ul>	
<p><b>b. Goal and Objectives</b></p> <ul style="list-style-type: none"> <li>• What did you want to achieve? i.e., types of changes you envisioned</li> <li>• How did you determine your objectives?</li> <li>• What were some of the challenges?</li> </ul>	
<p><b>c. Target Sector</b></p> <ul style="list-style-type: none"> <li>• Who were the key target groups of your initiative? Specify.</li> <li>• What were the areas targeted? Specify.</li> </ul>	

Phases of an Advocacy Initiative	Your Advocacy Initiative
<p><b>d. Capacity of Organization/Group</b></p> <ul style="list-style-type: none"> <li>• Did you have the experience/personnel and/or financial resources?</li> <li>• Who were your potential allies?</li> </ul>	
<p><b>e. Actions/Risks</b></p> <ul style="list-style-type: none"> <li>• What actions did you take?</li> <li>• What risks were involved? How did you protect your group members?</li> </ul>	
<p><b>f. Investigation/Analysis</b></p> <ul style="list-style-type: none"> <li>• Describe what type of investigation/analysis your organization carried out?</li> </ul>	
<p><b>g. Results</b></p> <ul style="list-style-type: none"> <li>• Did you affect change in the areas you identified?</li> <li>• How did you know your initiative worked?</li> <li>• What changed in the short term?</li> <li>• What changed in the long term?</li> </ul>	

## Lessons Learned

- List the strengths and weaknesses in your initiative?
- Who would you involve or NOT involve?
- What other methods of advocacy would appropriately have met your goals?

## Activity 3 Designing and Assessing an Advocacy Campaign

### Objective

To practice organising an effective advocacy campaign in the area of Roma rights protection and promotion.

### Time

2 hrs 30 min

### Materials

- **Worksheet 14: Effective Advocacy Initiatives**
- **Worksheet 15: Evaluation Grid for Advocacy Campaign**
- Strips of paper (1 for each participant)

### Description

This activity is divided into two parts.

In **Part A**, your group will design an effective advocacy campaign to protect and promote Roma rights.

In **Part B**, groups share the results of their advocacy campaigns with the larger group.

### 1 hr

#### **Part A Designing an Effective Advocacy Campaign**

Use the information below to help design an advocacy campaign. Read the following case:

Mark and Janice, a young Roma couple, live in a temporary camp just outside of a major urban centre in the country where they live. Mark and Janice, as well as the other camp dwellers, have tried repeatedly without success to find decent lodging where they can properly take care of their four children. Not only can they not find something suitable, but also Mark is constantly denied work that would help pay for such a home. Things are no easier for the children. Given that the local Roma population is so small, there are no “Roma schools” for their children to attend. Moreover, the “white” families have made it clear to government representatives that they will not allow the Roma children to mix with their own at the mainstream school.



*Act. 3 cont'd*

1. Select one of the following three issues as the basis of your advocacy campaign:
  - a. Housing Rights for Roma
  - b. Discrimination and the right to education
  - c. Denial of work and public services in the community
2. Develop the key elements of your advocacy campaign using **Worksheet 14**. Consult the information in the following pages to assist you in developing your plan.

**1 hr 30 min**

**Part B Presentations and Discussion**

1. Each group in turn presents their advocacy campaigns to the large group in a 10-minute presentation.
2. Using copies of the evaluation grid (**Worksheet 15**), evaluate the advocacy campaigns that were presented. Make sure to provide useful feedback for other groups on their work.
3. A resource person comments on the presentations focusing on lessons learned and highlighting effective strategies that can be used with the different target sectors.
4. Participants are encouraged to ask questions and comment on the different initiatives presented.

**End of Activity** ■

## Worksheet 14: Key Elements for Effective Advocacy

<b>ISSUE SELECTED:</b>	
<b>Your Advocacy Campaign</b>	
<p><b>Clear Objective</b></p> <ul style="list-style-type: none"> <li>• Easily explainable and understood</li> <li>• General enough to attract people’s interest while specific enough to achieve some concrete results within a reasonable time (six months to a year)</li> </ul>	<i>What do you want to achieve?</i>
<p><b>Well-defined Target Audiences</b></p> <ul style="list-style-type: none"> <li>• Primary Target: The group or individual who has the authority “to give you what you want”</li> <li>• Secondary Target: Those who will most directly influence the “authority”</li> </ul>	<i>Who are the right people to target?</i>
<p><b>A Clear Message</b></p> <ul style="list-style-type: none"> <li>• The message must be clear, true and persuasive to the audiences that your campaign is targeting. It is not enough that the message is clear to you</li> </ul>	<i>What message do your target groups need to hear?</i>
<p><b>A Variety of Messengers</b></p> <ul style="list-style-type: none"> <li>• Should include individuals who have credibility as “experts”:             <ul style="list-style-type: none"> <li>– some who can speak from personal experience</li> <li>– others who have special credibility or connection to the person or group you have targeted</li> </ul> </li> <li>• The same message will have a very different effect, depending on who communicates it</li> </ul>	<i>Who is the right messenger to deliver the message to the target group(s) selected?</i>
<p><b>A Variety of Delivery Methods</b></p> <ul style="list-style-type: none"> <li>• Different ways of delivering messages: lobbying, media work, protest and direct action</li> <li>• Campaigns must evaluate their options for action and combine the most appropriate ones together to achieve success</li> </ul>	<i>What are the most appropriate methods to deliver the messages to ensure they are heard?</i>

**Worksheet 15: Evaluation Grid for Advocacy Campaign**

	Weak	Average	Strong	Comments
<p><u>Clear Objective</u></p> <p>Was the campaign clear as to what it wanted to achieve?</p>				
<p><u>Well-defined Target Audiences</u></p> <p>Were the right people targeted?</p>				
<p><u>A Clear Message</u></p> <p>Did the campaign message include what the targets needed to hear?</p>				
<p><u>A Variety of Messengers</u></p> <p>Did the right messenger deliver the message to the right target?</p>				
<p><u>A Variety of Delivery Methods</u></p> <p>Were the methods used to deliver the messages the most appropriate ones to ensure that the messages were heard?</p>				



# Day 10: Wednesday, July 14

## Module 9 – Follow-Up

9:00 – 9:15	Recap of Day 9
9:15- 10:15	Activity 1 Why Work in Networks and Coalitions?
10:15 – 10:45	Break
10:45 – 12:30	Workshop Evaluation and Closing

# Module 9

## Follow-Up



### Objective

To explore effective use of networks and coalitions.

## Activity 1 Why Work in Networks and Coalitions?

### Objective

To examine the advantages and disadvantages of working in networks and coalitions.

### Time

1 hr

### Materials

- **Worksheet 16: Why Work in Networks and Coalitions?**
- **Reference Sheet 17: Networks and Coalitions**

### Description

1. Together with the facilitator review the definitions below.
2. Then brainstorm advantages and disadvantages of participating in networks and coalitions to address minority rights issues. Provide examples of how the current networks or coalitions you belong to help you in your minority rights work. Use **Worksheet 16** to list the answers provided by the group.

### Definitions

**Network:** A group of individuals, groups or institutions that exchange information and/or services. The emphasis in networking is on *exchange*.

**Coalition:** An alliance of organizations for joint action. Like networks, coalitions can exchange information and services, but the emphasis is on *action*. Coalitions are basically networks that go one step further in providing for action.

End of Activity ■

**Worksheet 16: Why Work in Networks and Coalitions?**

<b>Advantages</b>	<b>Disadvantages</b>

## Reference Sheet 17: Networks and Coalitions

### Advantages of Participating in Networks/Coalitions

Member organizations are able to:

- Speak with a stronger voice/increasing the pressure and possibly leading to greater impact.
- Increase the pool of information, experience, sharing of best practices and contacts.
- Benefit from the expertise and resources of other members, and thereby expand the scope of activities and influence.
- Establish linkages with groups that do not necessarily do the same work as their organization but can support their advocacy campaign.
- Better coordinate human rights efforts and divide the work more equitably within the human rights community
- Avoid duplication of efforts.
- Immediately respond to emerging crisis because a coordinating framework is already in place.
- Gain broader geographic representation and the possibility of a larger constituency.
- Benefit from collective security.
- Facilitate fundraising.

### Disadvantages of participating in Networks/Coalitions

- Can actually drain individual groups' resources, rather than augment them.
- Environmental factors beyond the control of coalition members can also derail the effort to act as a collective.
- Geographic, cultural or language barriers sometimes require that an inordinate amount of time be spent on communications.
- Credibility of a member group could suffer if other members lack credibility.
- The decision-making process could become more difficult which can weaken the influence of the coalition.
- Loss of autonomy.
- Competition between coalition members.
- Tensions can emerge over control of financial affairs.

Adapted from: The Fund for Peace. (1994). A Handbook on Establishing and Sustaining Human Rights Organizations.

## Workshop Evaluation and Closing

### Description

Final evaluation and closing remarks (20 min)

# Appendices

## Appendix 1 Opening Session Greetings and Introductions

### Instructions for the facilitator

In addition to being a good icebreaker to use with a group of people that don't know each other the short discussion about people's reactions that follows the activity allows for the introduction of the topic of stereotyping.

### Preparations

1. Copy and then cut the suggested Greetings (Fig. 1 found on the next page). You can also select a few from the countries where the participants are from.
2. Place them in hat.
3. Make sure each participant gets one greeting.

### Tips for the Facilitator

Participants will probably ask where the different greeting come from. You can suggest to them that they to guess or provide them with the suggested answers:

Greet the other person by embracing and kissing them 3 times on alternate cheeks. (Netherlands)  
Greet the other person by embracing and kissing them twice on alternate cheeks (Quebec, Canada)  
Greet the other person by embracing them and kissing them 4 times on alternate cheeks (Paris)  
Greet the other person by placing your hands together in prayer position and bow forward (Japan)  
Greet the other person by rubbing noses (Inuit)  
Greet the other person very warmly with a big hug (Palestine)  
Greet the other person with a very strong, firm handshake (Germany)  
As you greet the other person keep a distance of about 2 feet between you and shake hands with a very loose grip. (England)  
As you greet the other person keep a distance of about 1 foot between you, get down on one knee and pretend to tip a hat to them (Shakespearian!)

(Greetings on next page)



**Appendix 1 cont'd**

**Fig. 1 – GREETINGS**



**Greet the other person by embracing and kissing them  
3 times on alternate cheeks.**

**Greet the other person by embracing and kissing them twice on  
alternate cheeks**

**Greet the other person by embracing them and kissing them  
4 times on alternate cheeks**

**Greet the other person by placing your hands together  
in prayer position and bow forward**

**Greet the other person by rubbing noses**

**Greet the other person very warmly with a big hug**

**Greet the other person with a very strong, firm handshake**

**As you greet the other person keep a distance of about  
2 feet between you and shake hands with a very loose grip.**

**As you greet the other person keep a distance of about 1 foot between  
you, get down on one knee and pretend to tip a hat to them**

## Appendix 2: Framework Convention for the Protection of National Minorities

Strasbourg, 1.II.1995

The member States of the Council of Europe and the other States, signatories to the present framework Convention,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage;

Considering that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Wishing to follow-up the Declaration of the Heads of State and Government of the member States of the Council of Europe adopted in Vienna on 9 October 1993;

Being resolved to protect within their respective territories the existence of national minorities;

Considering that the upheavals of European history have shown that the protection of national minorities is essential to stability, democratic security and peace in this continent;

Considering that a pluralist and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person belonging to a national minority, but also create appropriate conditions enabling them to express, preserve and develop this identity;

Considering that the creation of a climate of tolerance and dialogue is necessary to enable cultural diversity to be a source and a factor, not of division, but of enrichment for each society;

Considering that the realisation of a tolerant and prosperous Europe does not depend solely on co-operation between States but also requires transfrontier co-operation between local and regional authorities without prejudice to the constitution and territorial integrity of each State;

Having regard to the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto;

Having regard to the commitments concerning the protection of national minorities in United Nations conventions and declarations and in the documents of the Conference on Security and Co-operation in Europe, particularly the Copenhagen Document of 29 June 1990;

Being resolved to define the principles to be respected and the obligations which flow from them, in order to ensure, in the member States and such other States as may become Parties to the present instrument, the effective protection of national minorities and of the rights and freedoms of persons belonging to those minorities, within the rule of law, respecting the territorial integrity and national sovereignty of states;

Being determined to implement the principles set out in this framework Convention through national legislation and appropriate governmental policies,

Have agreed as follows:

## **Section I**

### **Article 1**

The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.

### **Article 2**

The provisions of this framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

### **Article 3**

1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.
2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

## **Section II**

### **Article 4**

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.
2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those

belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.

3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

### **Article 5**

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

### **Article 6**

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

### **Article 7**

The Parties shall ensure respect for the right of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression, and freedom of thought, conscience and religion.

### **Article 8**

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.

### **Article 9**

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority

language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority are not discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.
3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.
4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

### **Article 10**

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.
3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

### **Article 11**

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.

2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.
3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

### **Article 12**

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.
2. In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.
3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

### **Article 13**

1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.
2. The exercise of this right shall not entail any financial obligation for the Parties.

### **Article 14**

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.
3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

### **Article 15**

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

### **Article 16**

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

### **Article 17**

1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.
2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels.

### **Article 18**

1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.
2. Where relevant, the Parties shall take measures to encourage transfrontier co-operation.

### **Article 19**

The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.

## **Section III**

### **Article 20**

In the exercise of the rights and freedoms flowing from the principles enshrined in the present framework Convention, any person belonging to a national minority shall

respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other national minorities.



### **Article 21**

Nothing in the present framework Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.

### **Article 22**

Nothing in the present framework Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.

### **Article 23**

The rights and freedoms flowing from the principles enshrined in the present framework Convention, in so far as they are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms or in the Protocols thereto, shall be understood so as to conform to the latter provisions.

## **Section IV**

### **Article 24**

1. The Committee of Ministers of the Council of Europe shall monitor the implementation of this framework Convention by the Contracting Parties.
2. The Parties which are not members of the Council of Europe shall participate in the implementation mechanism, according to modalities to be determined.

### **Article 25**

1. Within a period of one year following the entry into force of this framework Convention in respect of a Contracting Party, the latter shall transmit to the Secretary General of the Council of Europe full information on the legislative and other measures taken to give effect to the principles set out in this framework Convention.
2. Thereafter, each Party shall transmit to the Secretary General on a periodical basis and whenever the Committee of Ministers so requests any further information of relevance to the implementation of this framework Convention.
3. The Secretary General shall forward to the Committee of Ministers the information transmitted under the terms of this article.

## **Article 26**

1. In evaluating the adequacy of the measures taken by the Parties to give effect to the principles set out in this framework Convention the Committee of Ministers shall be assisted by an advisory committee, the members of which shall have recognised expertise in the field of the protection of national minorities.
2. The composition of this advisory committee and its procedure shall be determined by the Committee of Ministers within a period of one year following the entry into force of this framework Convention.

## **Section V**

### **Article 27**

This framework Convention shall be open for signature by the member States of the Council of Europe. Up until the date when the Convention enters into force, it shall also be open for signature by any other State so invited by the Committee of Ministers. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

### **Article 28**

1. This framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which twelve member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article 27.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.

### **Article 29**

1. After the entry into force of this framework Convention and after consulting the Contracting States, the Committee of Ministers of the Council of Europe may invite to accede to the Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, any non-member State of the Council of Europe which, invited to sign in accordance with the provisions of Article 27, has not yet done so, and any other non-member State.
2. In respect of any acceding State, the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

### **Article 30**

1. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the territory or territories for whose international relations it is responsible to which this framework Convention shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this framework Convention to any other territory specified in the declaration. In respect of such territory the framework Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Secretary General.

### **Article 31**

1. Any Party may at any time denounce this framework Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of six months after the date of receipt of the notification by the Secretary General.

### **Article 32**

The Secretary General of the Council of Europe shall notify the member States of the Council, other signatory States and any State which has acceded to this framework Convention, of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this framework Convention in accordance with Articles 28, 29 and 30;
- d. any other act, notification or communication relating to this framework Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this framework Convention.

Done at Strasbourg, this 1st day of February 1995, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to sign or accede to this framework Convention.

## Appendix 3: Framework Convention for the Protection of National Minorities – Explanatory Report

### Background

1. The Council of Europe has examined the situation of national minorities on a number of occasions over a period of more than forty years. In its very first year of existence (1949), the Parliamentary Assembly recognised, in a report of its Committee on Legal and Administrative Questions, the importance of "the problem of wider protection of the rights of national minorities". In 1961, the Assembly recommended the inclusion of an article in a second additional protocol to guarantee to national minorities certain rights not covered by the European Convention on Human Rights (ECHR). The latter simply refers to "association with a national minority" in the non-discrimination clause provided for in Article 14. Recommendation 285 (1961) proposed the following wording for the draft article on the protection of national minorities:

"Persons belonging to a national minority shall not be denied the right, in community with the other members of their group, and as far as compatible with public order, to enjoy their own culture, to use their own language, to establish their schools and receive teaching in the language of their choice or to profess and practise their own religion."

2. The committee of experts, which had been instructed to consider whether it was possible and advisable to draw up such a protocol, adjourned its activities until a final decision had been reached on the Belgian linguistics cases concerning the language used in education (European Court of Human Rights. Judgment of 27 July 1968, Series A No. 6). In 1973 it concluded that, from a legal point of view, there was no special need to make the rights of minorities the subject of a further protocol to the ECHR. However, the experts considered that there was no major legal obstacle to the adoption of such a protocol if it were considered advisable for other reasons.

3. More recently, the Parliamentary Assembly recommended a number of political and legal measures to the Committee of Ministers, in particular the drawing up of a protocol or a convention on the rights of national minorities. Recommendation 1134 (1990) contains a list of principles which the Assembly considered necessary for the protection of national minorities. In October 1991, the Steering Committee for Human Rights (CDDH) was given the task of considering, from both a legal and a political point of view, the conditions in which the Council of Europe could undertake an activity for the protection of national minorities, taking into account the work done by the Conference on Security and Co-operation in Europe (CSCE) and the United Nations, and the reflections within the Council of Europe.

4. In May 1992, the Committee of Ministers instructed the CDDH to examine the possibility of formulating specific legal standards relating to the protection of national minorities. To this end, the CDDH established a committee of experts (DH-MIN) which, under new terms of reference issued in March 1993, was required to propose specific legal standards in this area, bearing in mind the principle of complementarity of work between the Council of Europe and the CSCE. The CDDH and the DH-MIN took various texts into account, in particular the proposal for a European Convention for the Protection of National Minorities drawn up by the European Commission for Democracy through Law (the so-called Venice Commission), the Austrian proposal for an additional protocol to the ECHR, the draft additional protocol to the ECHR included in Assembly Recommendation 1201 (1993) and other proposals. This examination culminated in the report of the CDDH to the Committee of Ministers of 8 September 1993, which included various legal standards which might be adopted in this area and the legal instruments in which they could be laid down. In this connection, the CDDH noted that there was no consensus on the interpretation of the term "national minorities".

5. The decisive step was taken when the Heads of State and Government of the Council of Europe's member States met in Vienna at the summit of 8 and 9 October 1993. There, it was agreed that the national minorities which the upheavals of history have established in Europe had to be protected and respected as a contribution to peace and stability. In particular, the Heads of State and Government decided to enter into legal commitments regarding the protection of national minorities. Appendix II of the Vienna Declaration instructed the Committee of Ministers:

- to draft with minimum delay a framework convention specifying the principles which contracting States commit themselves to respect, in order to assure the protection of national minorities. This instrument would also be open for signature by non-member States;
- to begin work on drafting a protocol complementing the European Convention on Human Rights in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities.

6. On 4 November 1993, the Committee of Ministers established an ad hoc Committee for the Protection of National Minorities (CAHMIN). Its terms of reference reflected the decisions taken in Vienna. The committee, made up of experts from the Council of Europe's member States, started work in late January 1994, with the participation of representatives of the CDDH, the Council for Cultural Co-operation (CDCC), the Steering Committee on the Mass Media (CDMM) and the European Commission for Democracy through Law. The High Commissioner on National Minorities of the CSCE and the Commission of the European Communities also took part, as observers.

7. On 15 April 1994, CAHMIN submitted an interim report to the Committee of Ministers, which was then communicated to the Parliamentary Assembly (Doc. 7109).

At its 94th session in May 1994, the Committee of Ministers expressed satisfaction with the progress achieved under the terms of reference flowing from the Vienna Declaration.

8. A certain number of provisions of the framework Convention requiring political arbitration as well as those concerning the monitoring of the implementation were drafted by the Committee of Ministers (517bis meeting of Ministers' Deputies, 7 October 1994).

9. At its meeting from 10 to 14 October 1994, CAHMIN decided to submit the draft framework Convention to the Committee of Ministers, which adopted the text at the 95th Ministerial Session on 10 November 1994. The framework Convention was opened for signature by the Council of Europe's member States on 1 February 1995.

## **General considerations**

### ***Objectives of the framework Convention***

10. The framework Convention is the first legally binding multilateral instrument devoted to the protection of national minorities in general. Its aim is to specify the legal principles which States undertake to respect in order to ensure the protection of national minorities. The Council of Europe has thereby given effect to the Vienna Declaration's call (Appendix II) for the political commitments adopted by the Conference on Security and Co-operation in Europe (CSCE) to be transformed, to the greatest possible extent, into legal obligations.

### ***Approaches and fundamental concepts***

11. In view of the range of different situations and problems to be resolved, a choice was made for a framework Convention which contains mostly programme-type provisions setting out objectives which the Parties undertake to pursue. These provisions, which will not be directly applicable, leave the States concerned a measure of discretion in the implementation of the objectives which they have undertaken to achieve, thus enabling them to take particular circumstances into account.

12. It should also be pointed out that the framework Convention contains no definition of the notion of "national minority". It was decided to adopt a pragmatic approach, based on the recognition that at this stage, it is impossible to arrive at a definition capable of mustering general support of all Council of Europe member States.

13. The implementation of the principles set out in this framework Convention shall be done through national legislation and appropriate governmental policies. It does not imply the recognition of collective rights. The emphasis is placed on the protection of persons belonging to national minorities, who may exercise their rights individually and in community with others (see Article 3, paragraph 2). In this respect, the framework Convention follows the approach of texts adopted by other international organisations.

## **Structure of the framework Convention**

14. Apart from its Preamble, the framework Convention contains an operative part which is divided into five sections.
15. Section I contains provisions which, in a general fashion, stipulate certain fundamental principles which may serve to elucidate the other substantive provisions of the framework Convention.
16. Section II contains a catalogue of specific principles.
17. Section III contains various provisions concerning the interpretation and application of the framework Convention.
18. Section IV contains provisions on the monitoring of the implementation of the framework Convention.
19. Section V contains the final clauses which are based on the model final clauses for conventions and agreements concluded within the Council of Europe.

## **Commentary on the provisions of the Framework Convention**

### **Preamble**

20. The Preamble sets out the reasons for drawing up this framework Convention and explains certain basic concerns of its drafters. The opening words already indicate that this instrument may be signed and ratified by States not members of the Council of Europe (see Articles 27 and 29).
21. The Preamble refers to the statutory aim of the Council of Europe and to one of the methods by which this aim is to be pursued: the maintenance and further realisation of human rights and fundamental freedoms.
22. Reference is also made to the Vienna Declaration of Heads of State and Government of the member States of the Council of Europe, a document which laid the foundation for the present framework Convention (see also paragraph 5 above). In fact, the text of the Preamble is largely inspired by that declaration, in particular its Appendix II. The same is true of the choice of undertakings included in Sections I and II of the framework Convention.
23. The Preamble mentions, in a non-exhaustive way, three further sources of inspiration for the content of the framework Convention: the Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and instruments which contain commitments regarding the protection of national minorities of the United Nations and the CSCE.
24. The Preamble reflects the concern of the Council of Europe and its member States about the risk to the existence of national minorities and is inspired by Article 1, paragraph 1, of the United Nations Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities (Resolution 47/135 adopted by the General Assembly on 18 December 1992).



25. Given that the framework Convention is also open to States which are not members of the Council of Europe, and to ensure a more comprehensive approach, it was decided to include certain principles from which flow rights and freedoms which are already guaranteed in the ECHR or in the protocols thereto (see also in connection with this, Article 23 of the framework Convention).

26. The reference to United Nations conventions and declarations recalls the work done at the universal level, for example in the International Covenant on Civil and Political Rights (Article 27) and in the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities. However this reference does not extend to any definition of a national minority which may be contained in these texts.

27. The reference to the relevant CSCE commitments reflects the desire expressed in Appendix II of the Vienna Declaration that the Council of Europe should apply itself to transforming, to the greatest possible extent, these political commitments into legal obligations. The Copenhagen Document in particular provided guidance for drafting the framework Convention.

28. The penultimate paragraph in the Preamble sets out the main aim of the framework Convention: to ensure the effective protection of national minorities and of the rights of persons belonging to those minorities. It also stresses that this effective protection should be ensured within the rule of law, respecting the territorial integrity and national sovereignty of States.

29. The purpose of the last recital is to indicate that the provisions of this framework Convention are not directly applicable. It is not concerned with the law and practice of the Parties in regard to the reception of international treaties in the internal legal order.

## **Section I**

### **Article 1**

30. The main purpose of Article 1 is to specify that the protection of national minorities, which forms an integral part of the protection of human rights, does not fall within the reserved domain of States. The statement that this protection "forms an integral part of the international protection of human rights" does not confer any competence to interpret the present framework Convention on the organs established by the ECHR.

31. The article refers to the protection of national minorities as such and of the rights and freedoms of persons belonging to such minorities. This distinction and the difference in wording make it clear that no collective rights of national minorities are envisaged (see also the commentary to Article 3). The Parties do however recognise that protection of a national minority can be achieved through protection of the rights of individuals belonging to such a minority.

### **Article 2**

32. This article provides a set of principles governing the application of the framework Convention. It is, inter alia, inspired by the United Nations Declaration on Principles of

International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly Resolution 2625 (XXV) of 24 October 1970). The principles mentioned in this provision are of a general nature but do have particular relevance to the field covered by the framework Convention.

### **Article 3**

33. This article contains two distinct but related principles laid down in two different paragraphs

#### Paragraph 1

34. Paragraph 1 firstly guarantees to every person belonging to a national minority the freedom to choose to be treated or not to be treated as such. This provision leaves it to every such person to decide whether or not he or she wishes to come under the protection flowing from the principles of the framework Convention.

35. This paragraph does not imply a right for an individual to choose arbitrarily to belong to any national minority. The individual's subjective choice is inseparably linked to objective criteria relevant to the person's identity.

36. Paragraph 1 further provides that no disadvantage shall arise from the free choice it guarantees, or from the exercise of the rights which are connected to that choice. This part of the provision aims to secure that the enjoyment of the freedom to choose shall also not be impaired indirectly.

#### Paragraph 2

37. Paragraph 2 provides that the rights and freedoms flowing from the principles of the framework Convention may be exercised individually or in community with others. It thus recognises the possibility of joint exercise of those rights and freedoms, which is distinct from the notion of collective rights. The term "others" shall be understood in the widest possible sense and shall include persons belonging to the same national minority, to another national minority, or to the majority.

## **Section II**

### **Article 4**

38. The purpose of this article is to ensure the applicability of the principles of equality and non-discrimination for persons belonging to national minorities. The provisions of this article are to be understood in the context of this framework Convention.

#### Paragraphs 1 and 2

39. Paragraph 1 takes the classic approach to these principles. Paragraph 2 stresses that the promotion of full and effective equality between persons belonging to a national minority and those belonging to the majority may require the Parties to adopt special measures that take into account the specific conditions of the persons concerned. Such measures need to be "adequate", that is in conformity with the proportionality principle,

in order to avoid violation of the rights of others as well as discrimination against others. This principle requires, among other things, that such measures do not extend, in time or in scope, beyond what is necessary in order to achieve the aim of full and effective equality.

40. No separate provision dealing specifically with the principle of equal opportunities has been included in the framework Convention. Such an inclusion was considered unnecessary as the principle is already implied in paragraph 2 of this article. Given the principle of non-discrimination set out in paragraph 1 the same was considered true for freedom of movement.

#### Paragraph 3

41. The purpose of paragraph 3 is to make clear that the measures referred to in paragraph 2 are not to be regarded as contravening the principles of equality and non-discrimination. Its aim is to ensure to persons belonging to national minorities effective equality along with persons belonging to the majority.

### **Article 5**

42. This article essentially aims at ensuring that persons belonging to national minorities can maintain and develop their culture and preserve their identity.

#### Paragraph 1

43. Paragraph 1 contains an obligation to promote the necessary conditions in this respect. It lists four essential elements of the identity of a national minority. This provision does not imply that all ethnic, cultural, linguistic or religious differences necessarily lead to the creation of national minorities (see in this regard the report of the CSCE meeting of experts, held in Geneva in 1991, section II, paragraph 4).

44. The reference to "traditions" is not an endorsement or acceptance of practices which are contrary to national law or international standards. Traditional practices remain subject to limitations arising from the requirements of public order.

#### Paragraph 2

45. The purpose of paragraph 2 is to protect persons belonging to national minorities from assimilation against their will. It does not prohibit voluntary assimilation.

46. Paragraph 2 does not preclude the Parties from taking measures in pursuance of their general integration policy. It thus acknowledges the importance of social cohesion and reflects the desire expressed in the preamble that cultural diversity be a source and a factor, not of division, but of enrichment to each society.

### **Article 6**

47. This article is an expression of the concerns stated in Appendix III to the Vienna Declaration (Declaration and Plan of Action on combating racism, xenophobia, anti-Semitism and intolerance).

## Paragraph 1

48. Paragraph 1 stresses a spirit of tolerance and intercultural dialogue and points out the importance of the Parties' promoting mutual respect, understanding and co-operation among all who live on their territory. The fields of education, culture and the media are specifically mentioned because they are considered particularly relevant to the achievement of these aims.

49. In order to strengthen social cohesion, the aim of this paragraph is, inter alia, to promote tolerance and intercultural dialogue, by eliminating barriers between persons belonging to ethnic, cultural, linguistic and religious groups through the encouragement of intercultural organisations and movements which seek to promote mutual respect and understanding and to integrate these persons into society whilst preserving their identity.

## Paragraph 2

50. This provision is inspired by paragraph 40.2 of the Copenhagen Document of the CSCE. This obligation aims at the protection of all persons who may be subject to threats or acts of discrimination, hostility or violence, irrespective of the source of such threats or acts.

## **Article 7**

51. The purpose of this article is to guarantee respect for the right of every person belonging to a national minority to the fundamental freedoms mentioned therein. These freedoms are of course of a universal nature, that is they apply to all persons, whether belonging to a national minority or not (see, for instance, the corresponding provisions in Articles 9, 10 and 11 of the ECHR), but they are particularly relevant for the protection of national minorities. For the reasons stated above in the commentary on the preamble, it was decided to include certain undertakings which already appear in the ECHR.

52. This provision may imply for the Parties certain positive obligations to protect the freedoms mentioned against violations which do not emanate from the State. Under the ECHR, the possibility of such positive obligations has been recognised by the European Court of Human Rights.

53. Some of the freedoms laid down in Article 7 are elaborated upon in Articles 8 and 9.

## **Article 8**

54. This article lays down more detailed rules for the protection of freedom of religion than Article 7. It combines several elements from paragraphs 32.2, 32.3 and 32.6 of the CSCE Copenhagen Document into a single provision. This freedom of course applies to all persons and persons belonging to a national minority should, in accordance with Article 4, enjoy it as well. Given the importance of this freedom in the present context, it was felt particularly appropriate to give it special attention.

## **Article 9**

55. This article contains more detailed rules for the protection of the freedom of expression than Article 7.

#### Paragraph 1

56. The first sentence of this paragraph is modelled on the second sentence of Article 10, paragraph 1, of the ECHR. Although the sentence refers specifically to the freedom to receive and impart information and ideas in the minority language, it also implies the freedom to receive and impart information and ideas in the majority or other languages.

57. The second sentence of this paragraph contains an undertaking to ensure that there is no discrimination in access to the media. The words "in the framework of their legal systems" were inserted in order to respect constitutional provisions which may limit the extent to which a Party can regulate access to the media.

#### Paragraph 2

58. This paragraph is modelled on the third sentence of Article 10, paragraph 1, of the ECHR.

59. The licensing of sound radio and television broadcasting, and of cinema enterprises, should be non-discriminatory and be based on objective criteria. The inclusion of these requirements, which are not expressly mentioned in the third sentence of Article 10, paragraph 1, of the ECHR, was considered important for an instrument designed to protect persons belonging to a national minority.

60. The words "sound radio", which also appear in paragraph 3 of this article, do not appear in the corresponding sentence in Article 10 of the ECHR. They are used in order to reflect modern terminology and do not imply any material difference in meaning from Article 10 of the ECHR.

#### Paragraph 3

61. The first sentence of this paragraph, dealing with the creation and use of printed media, contains an essentially negative undertaking whereas the more flexibly worded second sentence emphasises a positive obligation in the field of sound radio and television broadcasting (for example the allocation of frequencies). This distinction reflects the relative scarcity of available frequencies and the need for regulation in the latter field. No express reference has been made to the right of persons belonging to a national minority to seek funds for the establishment of media, as this right was considered self-evident.

#### Paragraph 4

62. This paragraph emphasises the need for special measures with the dual aim of facilitating access to the media for persons belonging to national minorities and promoting tolerance and cultural pluralism. The expression "adequate measures" was used for the reasons given in the commentary on Article 4, paragraph 2 (see paragraph 39), which uses the same words. The paragraph complements the undertaking laid down in the last sentence of Article 9, paragraph 1. The measures envisaged by this

paragraph could, for example, consist of funding for minority broadcasting or for programme productions dealing with minority issues and/or offering a dialogue between groups, or of encouraging, subject to editorial independence, editors and broadcasters to allow national minorities access to their media.

## **Article 10**

### Paragraph 1

63. The recognition of the right of every person belonging to a national minority to use his or her minority language freely and without interference is particularly important. The use of the minority language represents one of the principal means by which such persons can assert and preserve their identity. It also enables them to exercise their freedom of expression. "In public" means, for instance, in a public place, outside, or in the presence of other persons but is not concerned in any circumstances with relations with public authorities, the subject of paragraph 2 of this article.

### Paragraph 2

64. This provision does not cover all relations between individuals belonging to national minorities and public authorities. It only extends to administrative authorities. Nevertheless, the latter must be broadly interpreted to include, for example, ombudsmen. In recognition of the possible financial, administrative, in particular in the military field, and technical difficulties associated with the use of minority languages in relations between persons belonging to national minorities and the administrative authorities, this provision has been worded very flexibly, leaving Parties a wide measure of discretion.

65. Once the two conditions in paragraph 2 are met, Parties shall endeavour to ensure the use of a minority language in relations with the administrative authorities as far as possible. The existence of a "real need" is to be assessed by the State on the basis of objective criteria. Although contracting States should make every effort to apply this principle, the wording "as far as possible" indicates that various factors, in particular the financial resources of the Party concerned, may be taken into consideration.

66. The Parties' obligations regarding the use of minority languages do not in any way affect the status of the official language or languages of the country concerned. Moreover, the framework Convention deliberately refrains from defining "areas inhabited by persons belonging to national minorities traditionally or in substantial numbers". It was considered preferable to adopt a flexible form of wording which will allow each Party's particular circumstances to be taken into account. The term "inhabited ... traditionally" does not refer to historical minorities, but only to those still living in the same geographical area (see also Article 11, paragraph 3, and Article 14, paragraph 2).

### Paragraph 3

67. This paragraph is based on certain provisions contained in Articles 5 and 6 of the European Convention on Human Rights. It does not go beyond the safeguards contained in those articles.

## **Article 11**

### Paragraph 1

68. In view of the practical implications of this obligation, the provision is worded in such a way as to enable Parties to apply it in the light of their own particular circumstances. For example, Parties may use the alphabet of their official language to write the name(s) of a person belonging to a national minority in its phonetic form. Persons who have been forced to give up their original name(s), or whose name(s) has (have) been changed by force, should be entitled to revert to it (them), subject of course to exceptions in the case of abuse of rights and changes of name(s) for fraudulent purposes. It is understood that the legal systems of the Parties will, in this respect, meet international principles concerning the protection of national minorities.

### Paragraph 2

69. The obligation in this paragraph concerns an individual's right to display "in his or her minority language signs, inscriptions and other information of a private nature visible to the public". This does not, of course, exclude persons belonging to national minorities from being required to use, in addition, the official language and/or other minority languages. The expression "of a private nature" refers to all that is not official.

### Paragraph 3

70. This article aims to promote the possibility of having local names, street names and other topographical indications intended for the public also in the minority language. In implementing this principle the States are entitled to take due account of the specific circumstances and the framework of their legal systems, including, where appropriate, agreements with other States. In the field covered by this provision, it is understood that the Parties are under no obligation to conclude agreements with other States. Conversely, the possibility of concluding such agreements is not ruled out. It is also understood that the legally binding nature of existing agreements remains unaffected. This provision does not imply any official recognition of local names in the minority languages.

## **Article 12**

71. This article seeks to promote knowledge of the culture, history, language and religion of both national minorities and the majority population in an intercultural perspective (see Article 6, paragraph 1). The aim is to create a climate of tolerance and dialogue, as referred to in the preamble to the framework convention and in Appendix II of the Vienna Declaration of the Heads of State and Government. The list in the second paragraph is not exhaustive whilst the words "access to textbooks" are understood as including the publication of textbooks and their purchase in other countries. The obligation to promote equal opportunities for access to education at all levels for persons belonging to national minorities reflects a concern expressed in the Vienna Declaration.



## **Article 13**

### Paragraph 1

72. The Parties' obligation to recognise the right of persons belonging to national minorities to set up and manage their own private educational and training establishments is subject to the requirements of their educational system, particularly the regulations relating to compulsory schooling. The establishments covered by this paragraph may be subject to the same forms of supervision as other establishments, particularly with regard to teaching standards. Once the required standards are met, it is important that any qualifications awarded are officially recognised. The relevant national legislation must be based on objective criteria and conform to the principle of non-discrimination.

### Paragraph 2

73. The exercise of the right referred to in paragraph 1 does not entail any financial obligation for the Party concerned, but neither does it exclude the possibility of such a contribution.

## **Article 14**

### Paragraph 1

74. The obligation to recognise the right of every person belonging to a national minority to learn his or her minority language concerns one of the principal means by which such individuals can assert and preserve their identity. There can be no exceptions to this. Without prejudice to the principles mentioned in paragraph 2, this paragraph does not imply positive action, notably of a financial nature, on the part of the State.

### Paragraph 2

75. This provision concerns teaching of and instruction in a minority language. In recognition of the possible financial, administrative and technical difficulties associated with instruction of or in minority languages, this provision has been worded very flexibly, leaving Parties a wide measure of discretion. The obligation to endeavour to ensure instruction of or in minority languages is subject to several conditions; in particular, there must be "sufficient demand" from persons belonging to the relevant national minorities. The wording "as far as possible" indicates that such instruction is dependent on the available resources of the Party concerned.

76. The text deliberately refrains from defining "sufficient demand", a flexible form of wording which allows Parties to take account of their countries' own particular circumstances. Parties have a choice of means and arrangements in ensuring such instruction, taking their particular educational system into account.

77. The alternatives referred to in this paragraph – "opportunities for being taught the minority language or for receiving instruction in this language" – are not mutually exclusive. Even though Article 14, paragraph 2, imposes no obligation upon States to do

both, its wording does not prevent the States Parties from implementing the teaching of the minority language as well as the instruction in the minority language. Bilingual instruction may be one of the means of achieving the objective of this provision. The obligation arising from this paragraph could be extended to pre-school education.

### Paragraph 3

78. The opportunities for being taught the minority language or for receiving instruction in this language are without prejudice to the learning of the official language or the teaching in this language. Indeed, knowledge of the official language is a factor of social cohesion and integration.

79. It is for States where there is more than one official language to settle the particular questions which the implementation of this provision shall entail.

## **Article 15**

80. This article requires Parties to create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them. It aims above all to encourage real equality between persons belonging to national minorities and those forming part of the majority. In order to create the necessary conditions for such participation by persons belonging to national minorities, Parties could promote – in the framework of their constitutional systems – inter alia the following measures:

- consultation with these persons, by means of appropriate procedures and, in particular, through their representative institutions, when Parties are contemplating legislation or administrative measures likely to affect them directly;
- involving these persons in the preparation, implementation and assessment of national and regional development plans and programmes likely to affect them directly;
- undertaking studies, in conjunction with these persons, to assess the possible impact on them of projected development activities;
- effective participation of persons belonging to national minorities in the decision-making processes and elected bodies both at national and local levels;
- decentralised or local forms of government.

## **Article 16**

81. The purpose of this article is to protect against measures which change the proportion of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms which flow from the present framework Convention. Examples of such measures might be expropriation, evictions and expulsions or redrawing administrative borders with a view to restricting the enjoyment of such rights and freedoms ("gerrymandering").

82. The article prohibits only measures which are aimed at restricting the rights and freedoms flowing from the framework Convention. It was considered impossible to extend the prohibition to measures having the effect of restricting such rights and freedoms, since such measures may sometimes be entirely justified and legitimate. One example might be resettlement of inhabitants of a village in order to build a dam.

## **Article 17**

83. This article contains two undertakings important to the maintenance and development of the culture of persons belonging to a national minority and to the preservation of their identity (see also Article 5, paragraph 1). The first paragraph deals with the right to establish and maintain free and peaceful contacts across frontiers,

whereas the second paragraph protects the right to participate in the activities of non-governmental organisations (see also in this connection, the provisions on freedom of assembly and of association in Article 7).

84. The provisions of this article are largely based on paragraphs 32.4 and 32.6 of the Copenhagen Document of the CSCE. It was considered unnecessary to include an explicit provision on the right to establish and maintain contacts within the territory of a State, since this was felt to be adequately covered by other provisions of the framework Convention, notably Article 7 as regards freedom of assembly and of association.

### **Article 18**

85. This article encourages the Parties to conclude, in addition to the existing international

instruments, and where the specific circumstances justify it, bilateral and multilateral agreements for the protection of national minorities. It also stimulates transfrontier co-operation. As is emphasised in the Vienna Declaration and its Appendix II, such agreements and co-operation are important for the promotion of tolerance, prosperity, stability and peace.

#### Paragraph 1

86. Bilateral and multilateral agreements as envisaged by this paragraph might, for instance, be concluded in the fields of culture, education and information.

#### Paragraph 2

87. This paragraph points out the importance of transfrontier co-operation. Exchange of information and experience between States is an important tool for the promotion of mutual understanding and confidence. In particular, transfrontier co-operation has the advantage that it allows for arrangements specifically tailored to the wishes and needs of the persons concerned.

### **Article 19**

88. This article provides for the possibility of limitations, restrictions or derogations. When the undertakings included in this framework Convention have an equivalent in other international legal instruments, in particular the ECHR, only the limitations, restrictions or derogations provided for in those instruments are allowed. When the undertakings set forth in this framework Convention have no equivalent in other international legal instruments, the only limitations, restrictions or derogations allowed are those which, included in other legal instruments (such as the ECHR) in respect of different undertakings, are relevant.

## **Section III**

### **Article 20**

89. Persons belonging to national minorities are required to respect the national constitution and other national legislation. However, this reference to national legislation clearly does not entitle Parties to ignore the provisions of the framework Convention. Persons belonging to national minorities must also respect the rights of others. In this regard, reference may be made to situations where persons belonging to national minorities are in a minority nationally but form a majority within one area of the State.

### **Article 21**

90. This provision stresses the importance of the fundamental principles of international law and specifies that the protection of persons belonging to national minorities must be in accordance with these principles.

### **Article 22**

91. This provision, which is based on Article 60 of the ECHR, sets out a well-known principle. The aim is to ensure that persons belonging to national minorities benefit from whichever of the relevant national or international human rights legislation is most favourable to them.

### **Article 23**

92. This provision deals with the relationship between the framework Convention and the Convention for the Protection of Human Rights and Fundamental Freedoms, reference to which is included in the Preamble. Under no circumstances can the framework Convention modify the rights and freedoms safeguarded in the Convention for the Protection of Human Rights and Fundamental Freedoms. On the contrary, rights and freedoms enshrined in the framework Convention which are the subject of a corresponding provision in the Convention for the Protection of Human Rights and Fundamental Freedoms must be interpreted in accordance with the latter.

## **Section IV**

### **Articles 24-26**

93. To provide for overseeing the application of the framework Convention, the Committee of Ministers is entrusted with the task of monitoring the implementation by the Contracting Parties. The Committee of Ministers shall determine the modalities for the participation in the implementation mechanism by the Parties which are not members of the Council of Europe.

94. Each Party shall transmit to the Secretary General on a periodical basis and whenever the Committee of Ministers so requests information of relevance to the implementation of this framework Convention. The Secretary General shall transmit this information to the Committee of Ministers. However, the first report, the aim of which is to provide full information on legislative and other measures which the Party has taken to give effect to the undertakings set out in the framework Convention, must be submitted within one year of the entry into force of the framework Convention in

respect of the Party concerned. The purpose of the subsequent reports shall be to complement the information included in the first report.

95. In order to ensure the efficiency of the monitoring of the implementation of the framework Convention, it provides for the setting up of an advisory committee. The task of this advisory committee is to assist the Committee of Ministers when it evaluates the adequacy of the measures taken by a Party to give effect to the principles set out in the framework Convention.

96. It is up to the Committee of Ministers to determine, within one year of the entry into force of the framework Convention, the composition and the procedures of the advisory committee, the members of which shall have recognised expertise in the field of the protection of national minorities.

97. The monitoring of the implementation of this framework Convention shall, in so far as possible, be transparent. In this regard it would be advisable to envisage the publication of the reports and other texts resulting from such monitoring.

## **Section V**

98. The final provisions contained in articles 27 to 32 are based on the model final clauses for conventions and agreements concluded within the Council of Europe. No article on reservations was included; reservations are allowed in as far as they are permitted by international law. Apart from Articles 27 and 29 the articles in this section require no particular comment.

### **Articles 27 and 29**

99. The framework Convention is open for signature by the Council of Europe's member States and, at the invitation of the Committee of Ministers, by other States. It is understood that "other States" are those States which participate in the Conference on Security and Co-operation in Europe. These provisions take account of the Vienna Declaration, according to which the framework Convention should also be open for signature by non-member States (see Appendix II to the Vienna Declaration of the Council of Europe Summit).

## Appendix 4: Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities

Adopted by General Assembly resolution 47/135 of 18 December 1992

### *The General Assembly,*

Reaffirming that one of the basic aims of the United Nations, as proclaimed in the Charter, is to promote and encourage respect for human rights and for fundamental freedoms for all, without distinction as to race, sex, language or religion,

Reaffirming faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small,

Desiring to promote the realization of the principles contained in the Charter, the Universal Declaration of Human Rights, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, and the Convention on the Rights of the Child, as well as other relevant international instruments that have been adopted at the universal or regional level and those concluded between individual States Members of the United Nations,

Inspired by the provisions of article 27 of the International Covenant on Civil and Political Rights concerning the rights of persons belonging to ethnic, religious and linguistic minorities,

Considering that the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live,

Emphasizing that the constant promotion and realization of the rights of persons belonging to national or ethnic, religious and linguistic minorities, as an integral part of the development of society as a whole and within a democratic framework based on the rule of law, would contribute to the strengthening of friendship and cooperation among peoples and States,

Considering that the United Nations has an important role to play regarding the protection of minorities,

Bearing in mind the work done so far within the United Nations system, in particular by the Commission on Human Rights, the Subcommission on Prevention of Discrimination and Protection of Minorities and the bodies established pursuant to the International Covenants on Human Rights and other relevant international human rights instruments in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Taking into account the important work which is done by intergovernmental and non-governmental organizations in protecting minorities and in promoting and protecting the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Recognizing the need to ensure even more effective implementation of international human rights instruments with regard to the rights of persons belonging to national or ethnic, religious and linguistic minorities,

Proclaims this Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities:

### **Article 1**

1. States shall protect the existence and the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and shall encourage conditions for the promotion of that identity.
2. States shall adopt appropriate legislative and other measures to achieve those ends.

### **Article 2**

1. Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.
2. Persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life.
3. Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.
4. Persons belonging to minorities have the right to establish and maintain their own associations.
5. Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.

### **Article 3**

1. Persons belonging to minorities may exercise their rights, including those set forth in the present Declaration, individually as well as in community with other members of their group, without any discrimination.
2. No disadvantage shall result for any person belonging to a minority as the consequence of the exercise or non-exercise of the rights set forth in the present Declaration.



#### **Article 4**

1. States shall take measures where required to ensure that persons belonging to minorities may exercise fully and effectively all their human rights and fundamental freedoms without any discrimination and in full equality before the law.
2. States shall take measures to create favourable conditions to enable persons belonging to minorities to express their characteristics and to develop their culture, language, religion, traditions and customs, except where specific practices are in violation of national law and contrary to international standards.
3. States should take appropriate measures so that, wherever possible, persons belonging to minorities may have adequate opportunities to learn their mother tongue or to have instruction in their mother tongue.
4. States should, where appropriate, take measures in the field of education, in order to encourage knowledge of the history, traditions, language and culture of the minorities existing within their territory. Persons belonging to minorities should have adequate opportunities to gain knowledge of the society as a whole.
5. States should consider appropriate measures so that persons belonging to minorities may participate fully in the economic progress and development in their country.

#### **Article 5**

1. National policies and programmes shall be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.
2. Programmes of cooperation and assistance among States should be planned and implemented with due regard for the legitimate interests of persons belonging to minorities.

#### **Article 6**

States should cooperate on questions relating to persons belonging to minorities, inter alia, exchanging information and experiences, in order to promote mutual understanding and confidence.

#### **Article 7**

States should cooperate in order to promote respect for the rights set forth in the present Declaration.

#### **Article 8**

1. Nothing in the present Declaration shall prevent the fulfilment of international obligations of States in relation to persons belonging to minorities. In particular, States shall fulfil in good faith the obligations and commitments they have assumed under international treaties and agreements to which they are parties.

2. The exercise of the rights set forth in the present Declaration shall not prejudice the enjoyment by all persons of universally recognized human rights and fundamental freedoms.

3. Measures taken by States to ensure the effective enjoyment of the rights set forth in the present Declaration shall not prima facie be considered contrary to the principle of equality contained in the Universal Declaration of Human Rights.

4. Nothing in the present Declaration may be construed as permitting any activity contrary to the purposes and principles of the United Nations, including sovereign equality, territorial integrity and political independence of States.

### **Article 9**

The specialized agencies and other organizations of the United Nations system shall contribute to the full realization of the rights and principles set forth in the present Declaration, within their respective fields of competence.

## Appendix 5: Info Packs on International Instruments

### International Covenant on Civil and Political Rights

*Note: Information from the Info-Packs on these instruments comes from Ravindran, D.J. Human Rights Praxis: A Resource Book for Study, Action and Reflection. Asian Forum for Human Rights and Development, Bangkok, Thailand, 1998.*

#### Overview

The International Covenant on Civil and Political Rights (ICCPR) was adopted in 1966 and came into force in 1976. As of November 2, 2003, 151 States have become parties to the Covenant (7 States are remaining signatories). The Covenant also contains two Optional Protocols.

Article 1 deals with the question of self-determination. Article 2, deals with the obligation of State parties to undertake necessary steps to respect and ensure to all individuals the rights recognized in the Covenant. The rights should be ensured to all individuals without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Article 3 deals with the obligation of ensuring the equal rights of men and women. Article 4 deals with derogation principles. Article 5 deals with the obligation not to misrepresent any of the articles of the Covenant in such a manner to undermine the rights and freedoms recognized in the Covenant. Articles 6 to 27 deal with the following specific rights:

- The right to life (art.6)
- Prohibition against torture or cruel, inhuman or degrading treatment or punishment (art.7)
- Prohibition against slavery, slave trade, servitude and forced or compulsory labour (art.8)
- Prohibition against arbitrary arrest or detention (art.9)
- Obligation to treat with humanity all persons deprived of their liberty (art.10)
- Prohibition against imprisonment merely on the ground of inability to fulfil a contractual obligation (art.11)
- The right to freedom of movement and freedom to choose a residence (art.12)
- Limitations on the expulsion of aliens lawfully in the territory of a State party (art.13)
- Equality of all persons before the courts and tribunals and for guarantees for fair hearing in criminal and civil proceedings (art.14)
- Prohibition against use of retroactive penal laws (art.15)

- Right of everyone to be recognized as a person before the law (art.16)
- Prohibition against arbitrary or unlawful interference with an individual's privacy, family, home or correspondence and of unlawful attacks on his honour and reputation (art. 17).
- The rights to freedom of thought, conscience and religion (art.18)
- Freedom of opinion and expression (art.19)
- Prohibition by law of any propaganda for war and of any advocacy of national, racial or religious hatred (art.20)
- The right of peaceful assembly (art.21)
- The right to freedom of association (art. 22)
- The protection of the family (art. 23)
- The rights of children (art.24)
- The right of every citizen to take part in the conduct of public affairs, to vote and to be elected, and access to public service in his country (art. 25)
- Equality before the law and equal protection of the law (art.26)
- Protection of the rights of ethnic, religious and linguistic minorities (art.27)

### **Monitoring Mechanism**

Under the International Covenant on Civil and Political Rights, a Human Rights Committee has been established to monitor the compliance of rights recognized under the Covenant. The Human Rights Committee consists of eighteen independent experts who are elected from the State parties to the Covenant.

The responsibilities of the Committee are;

- (a) consideration of reports submitted by State parties;
- (b) the preparation of general comments; and
- (c) examining communications from individuals alleging violations of any of the rights contained in the Covenant, as provided by the first Optional Protocol to the Covenant.

The Committee decided in 1982 to prepare "General comments" on the rights and provisions contained in the Covenant with a view to assisting States parties in fulfilling their reporting obligations and to provide greater interpretative clarity as to the intent, meaning and content of the Covenant. There have been 28 General comments since 1982; the last one being in 2000 on the equality of rights between men and women. The

General comments can be found on the UN's web site ([www.unhchr.ch](http://www.unhchr.ch)). The Human Rights Committee adopted a new and revised General Comment on Article 2 (right to an effective remedy) under the Covenant during its session held from 15 March to 2 April 2004.

## **Provisions**

### ***ARTICLE 2: Obligation of State Parties***

Article 2 deals with the obligation of State parties to undertake necessary steps to respect and ensure to all individuals the rights recognized in the Covenant.

The obligation under this article has two elements:

1. Obligation of State parties to undertake necessary steps to respect and ensure to all individuals the rights recognized in the Covenant.
2. The rights should be ensured to all individuals without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

As for implementation at the national level, the Human Rights Committee has concluded that the implementation does not depend solely on constitutional or legislative provisions. They may not be sufficient by themselves.

The Committee has held that it is not merely the question of respecting the rights but the State parties have an obligation to ensure the enjoyment of these rights to all the individuals under their jurisdiction.

The obligation of State parties under the Covenant also includes development of special remedies, especially judicial remedies, for situations in which a right or freedom recognized in the Covenant is being violated (art.2 (3)).

The obligation under article 2 is of both a negative and a positive nature. The States parties have an obligation to respect the free exercise of the rights and freedoms set forth in the Covenant. They also have an obligation to create favourable conditions for the full enjoyment of all rights and freedoms by all individuals under the jurisdiction of the State party.

The Committee has stressed that individuals should know their rights under the Covenant. It is also important that all administrative and judicial authorities are aware of the obligations that the State party has assumed under the Covenant.

The Committee has also emphasized that the rights set forth in the Covenant apply to everyone, irrespective of his or her nationality or statelessness. Thus, they should guarantee the rights to all individuals despite the fact whether they are citizens or aliens. However, some rights such as the right to political participation (art.25) are applicable only to citizens. On the other hand, limitations on the expulsion of aliens lawfully in the

territory of a State party (art.13) applies only to aliens. A State party may impose restrictions on the entry of aliens. However, once it allows an alien to enter its territory, a State party is obligated to respect all the rights enshrined in the Covenant.

### **ARTICLE 2 (1): Non- discrimination**

Under article 2 (1), the rights enshrined in the Covenant should be ensured to all individuals without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. The Committee has stated that the term "discrimination" as used in the Covenant should be understood to imply any distinction, exclusion, restriction or preference which has the purpose or effect of nullifying or impairing the enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms.

The non-discrimination clause should be discussed in conjunction with the right of equality before the law and equal protection of the law without any discrimination (art.26). Article 26 only entitles all persons to equality before the law and equal protection of the law. It 'prohibits any discrimination under the law and guarantees to all persons equal and effective protection against discrimination'. Both the principle of non-discrimination and equality before the law 'constitute a basic and general principle relating to the protection of human rights.

The fundamental nature of the principle of non-discrimination is reflected in article 3 that obligates each State party to ensure the equal right of men and women in the enjoyment of the rights enshrined in the Covenant. Moreover, article 4 allows for derogation of certain obligations by State parties during a public emergency does not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin. Thus, a State party should protect the principle of non-discrimination even during a public emergency.

The Covenant also provides for States parties to prohibit, by law any advocacy of national, racial or religious hatred which is incitement to discrimination (art. 20 ( 2) ).

The principle of non-discrimination and that of equality before the law and equal protection of the law are referred to in articles relating to particular categories of human rights. Article 14, paragraph 1, provides that all persons shall be equal before the courts and tribunals, and paragraph 3 of the same article provides that, in the determination of any criminal charge against him, everyone shall be entitled, in full equality, to the minimum guarantees. Similarly, article 25 provides for the equal participation in public life of all citizens, without any of the distinctions mentioned in article 2.

State parties are obliged to undertake specific legislative, administrative or other measures to guarantee the equality in the enjoyment of rights. The Committee has observed that the principle of equality sometimes requires States parties to take affirmative action in order to diminish or eliminate conditions that cause or help to perpetuate discrimination prohibited by the Covenant.

### ***ARTICLE 3: Obligation to Ensure the Equal Rights of Men and Women***

This article deals with one of the grounds for discrimination identified in article 2(1). It addresses the importance to enable women to enjoy civil and political rights on an equal footing with men. The article requires that State parties undertake affirmative action to ensure the equality of men and women.

According to the Committee, simply enacting laws cannot do it. Therefore, the Committee has sought information regarding the role of women in practice to find out what measures, besides purely legislative measures of protection, have been or are being taken to give effect to the precise and positive obligations under article 3. The Committee has recommended that States parties give special attention to review laws or measures that inherently draw a distinction between men and women.

### ***ARTICLE 4: Derogation of Rights at the Time of a Public Emergency***

This article allows for State parties to derogate from a number of rights when a public emergency threatens the life of a nation. However, the article also specifies certain rights State parties should protect even during a public emergency.

No derogation is allowed regarding the following rights:

- The right to life (art.6)
- Prohibition against torture or cruel, inhuman or degrading treatment or punishment (art.7)
- No one shall be held in slavery; prohibition of slavery and slave trade; no one shall be held in servitude (art.8 (1) (2))
- Prohibition against imprisonment merely on the ground of inability to fulfill a contractual obligation (art 11)
- Prohibition against use of retroactive penal laws (art.15)
- Right of everyone to be recognized as a person before the law (art.16)
- The rights to freedom of thought, conscience and religion (art.18)

The Committee has stated that ‘measures taken under article 4 are of an exceptional and temporary nature and may only last as long as the life of the nation concerned is threatened and that, in times of emergency, the protection of human rights becomes all the more important, particularly those right from which no derogation can be made.’

### **Optional Protocols**

Under the first Optional Protocol to the International Covenant on Civil and Political Rights, the Human Rights Committee is authorized to receive complaints from individuals claiming to be victims of violations of rights contained in the Covenant. The

Second Optional Protocol to the International Covenant on Civil and Political Rights aims at the abolition of the death penalty.



## International Covenant on Economic, Social and Cultural Rights

### Overview

The Covenant on Economic, Social and Cultural Rights (ICESCR) was adopted by UN General Assembly on December 16, 1966 and entered into force on January 3, 1976. As of November 2, 2003, 148 States have become parties to the Covenant (6 States are remaining signatories).

Unlike civil and political rights, economic, social and cultural rights are often viewed with 'suspicion, caution and scepticism'. At times even 'treated with an air of triviality'. In the human rights field, economic, social and cultural rights are most often accorded secondary status by governments and NGOs.

However, the economic, social and cultural rights are indivisible part of human rights. First, ESC rights have intrinsic value. They create the condition for enhancing a person's capability by eradicating deprivation. They expand the freedom to lead a life that we value. The potentialities of the human person may be expressed through civil and political rights but the unfolding of these potentialities requires adequate social and economic circumstances.

The concept of human dignity is the foundation for civil and political and economic, social and cultural rights. These rights can neither be given nor taken away. Human dignity is denied when civil and political rights and economic, social and cultural rights are not guaranteed. Two common elements mediate both sets of rights - security and equality. Security of the person includes socio-economic security and equality before law encompasses equality of opportunities.

The development of international human rights law has shown the indivisibility of the civil, political and economic, social and cultural rights. For example, the Convention on the Elimination of All Forms of Discriminations Against Women and the Convention on the Rights of the Child incorporate protection of both sets of rights.

### Violations of Economic, Social and Cultural Rights

The notion of violation applied vigorously to civil and political rights is normally not used regarding economic, social and cultural rights. The Committee on Economic, Social and Cultural Rights has developed the concept of 'minimum core obligations'. The Committee developed this concept mainly to refute the argument that lack of resources hinders fulfillment of obligations. The Committee has stated that every State has a minimum core obligation to satisfy minimum essential levels of each of the right of the Covenant. The Committee has clarified that a State party 'in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is prima facie, failing to discharge its obligations under the Covenant'.

Thus, it can be construed that failure to fulfill minimum core obligations will be a violation of the rights enshrined in the Covenant. However, the notion of violation of economic, social and cultural rights needs to be further developed. A group of distinguished experts in international law have developed principles known as the Limburg Principles. These principles provide some basic framework to develop the notion of violation of economic, social and cultural rights. According to the Limburg Principles, 'A failure by a State party to comply with an obligation contained in the Covenant is, under international law, a violation of the Covenant.'

In determining what amounts to a failure to comply, it must be borne in mind that the Covenant affords to a State party a margin of discretion in selecting the means for carrying out its objects, and that factors beyond its reasonable control may adversely affect its capacity to implement particular rights.

A State party will be in violation of the Covenant, *inter alia*, if:

- It fails to take a step which it is required to take by the Covenant;
- It fails to remove promptly obstacles which it is under a duty to remove to permit the immediate fulfillment of a right;
- It fails to implement without delay a right which it is required by the Covenant to provide immediately;
- It wilfully fails to meet a generally accepted international minimum standard of achievement, which is within its powers to meet;
- It applies a limitation to a right recognized in the Covenant other than in accordance with the Covenant;
- It deliberately retards or halts the progressive realization of a right, unless it is acting within a limitation permitted by the Covenant or it does so due to a lack of available resources or force majeure;
- It fails to submit reports as required under the Covenant.'

## **Monitoring Mechanism**

The Committee on Economic, Social and Cultural Rights was established in 1985 and is comprised of 18 members who are independent and serve in their personal capacity, not as representatives of Governments.

The primary function of the Committee is to monitor the implementation of the Covenant by States parties. Under articles 16 and 17 of the Covenant, States parties undertake to submit periodic reports to the Committee-within two years of the entry into force of the Covenant for a particular State party, and thereafter once every five years-outlining the legislative, judicial, policy and other measures which they have taken to ensure the enjoyment of the rights contained in the Covenant. States parties are

also requested to provide detailed data on the degree to which the rights are implemented and areas where particular difficulties have been faced in this respect.

The Committee has assisted the reporting process by providing States parties with a detailed 22-page set of reporting guidelines specifying the types of information the Committee requires in order to monitor compliance with the Covenant effectively (available at the UN's web site: [www.unhchr.ch](http://www.unhchr.ch)).

The Committee can also assist Governments in fulfilling their obligations under the Covenant by issuing specific legislative, policy and other suggestions and recommendations such that economic, social and cultural rights are more effectively secured.

The Committee decided in 1988 to prepare "General Comments" on the rights and provisions contained in the Covenant with a view to assisting States parties in fulfilling their reporting obligations and to provide greater interpretative clarity as to the intent, meaning and content of the Covenant. The General Comments, the most recent being General Comment No. 15 on the right to water, can be found on the UN's web site ([www.unhchr.ch](http://www.unhchr.ch)).

The Committee was the first treaty body to provide non-governmental organizations (NGOs) with the opportunity to submit written statements and make oral submissions dealing with issues relating to the enjoyment or non-enjoyment of the rights contained in the Covenant in specific countries.

## **Provisions**

### **Articles 2(2) and 3: Non-discrimination**

Article 2 (2) and Article 3 deal with the non-discrimination aspect. Article 2 (2) is similar to other instruments in stating that the rights should be enjoyed without discrimination on the grounds of 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'

Article 3, on the other hand is more specific. It provides for the 'equal right of men and women to the enjoyment of rights...set forth in the Covenant.'

The concept of 'progressive realization' is not applicable to the nondiscrimination clause and the obligation to ensure equal rights of men and women. The obligation is to ensure it immediately and not progressively.

The obligation to ensure the equal rights of men and women includes affirmative action to eliminate conditions that contribute to discrimination.

The Committee has followed the practice that discrimination is not restricted to those grounds identified under the Covenant and includes discrimination based on age, health status, or disability. The nondiscriminatory clause of the Covenant covers discriminatory acts of both public authorities and private individuals.

#### **Article 4: Limitations**

Article 4, of the Covenant deals with the limitation clause. The ICESCR does not recognize any particular right to be non-derogable in the manner it is done under the ICCPR. However, Article 4, states that limitations imposed on the enjoyment of rights should be 'determined by law' and should be done solely for the purpose of 'promoting the general welfare in a democratic society.'

#### **Article 2 (1): Obligation of States**

Article 2 (1) of the Covenant deals with the obligation of States parties under the Covenant. According to the Committee on Economic, Social and Cultural Rights, 'Article 2 is of particular importance to a full understanding of the Covenant and must be seen as having a dynamic relationship with all of the other provisions of the Covenant. It describes the nature of the general legal obligations undertaken by States parties to the Covenant.'

Article 2 (1) of the Covenant states that,

'Each State party to the present Covenant undertakes to take steps, individually and through international assistance and co - operation, especially economic and technical, to the maximum of available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.'

Thus, obligations of States parties are expressed through the use of terms 'undertakes to take steps,' 'to the maximum available resources,' 'achieving progressively the full realization,' and 'by all appropriate means including particularly the adoption of legislative measures.'

In contrast, these terms are not used in the civil and political rights Covenant. The Article 2 (1) of the Covenant on Civil and Political Rights states that, 'Each State Party to the present Covenant undertakes to respect and to ensure to all individuals... the rights recognized in the present Covenant....' It is normally argued that the Covenant on Economic, Social and Cultural Rights does not belong to the same genre as that of the civil and political rights. Hence, it is important to understand the meaning of terms used in Article 2(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) to comprehend the obligations under the Covenant.

#### **Obligation of Conduct and Obligation of Result**

The Committee on Economic, Social and Cultural Rights has made it clear that the obligations of States parties include both obligation of conduct and obligation of result. The International Law Commission has formulated these two categories and the

Committee has referred to it to elaborate on the obligations of States parties under the Covenant.

Obligation of conduct means that, a State has to undertake a specific step. For example, prohibiting forced labour is an act of conduct. Obligation of result means attaining a particular outcome through active implementation of policies and programmes. However, conduct and result cannot be separated. The concept of obligation of conduct and result provides an effective tool for monitoring the implementation of economic, social and cultural rights. It also shows that realization of economic, social and cultural rights is a dynamic process involving both immediate and long-term intervention.

### **Meaning of 'Undertakes to Take Steps'**

The use of the term 'Each State Party . . . undertakes to take steps,' in Article 2 (1) of the ICESCR is normally construed as implying progressive implementation of the Covenant. However, it should be noted that a similar term is used in Article 2 (2) of the ICCPR and in Article 2 (1) of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment. Thus, the term cannot be construed to imply progressive implementation. In fact, the Committee on Economic, Social and Cultural Rights has clarified that, 'while the full realization of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.'

### **Meaning of 'By All Appropriate Means, Including Particularly the Adoption of Legislative Measures'**

The Committee on Economic, Social and Cultural Rights has recognized that States must decide the appropriate means and it may depend on the right that is being implemented. However, the Committee has stated that, 'States parties reports should indicate not only the measures that have been taken but also the basis on which they are considered to be the most "appropriate" under the circumstances.'

It is clear from the interpretation given by the Committee that the term 'all appropriate means' is linked to both conduct and result. A State party cannot avoid its obligations by merely saying that its policies are aimed at economic development and poverty or illiteracy will be eradicated eventually.

As for the term 'adoption of legislative measures,' the Committee has stated that it by no means exhausts the obligation of State parties. A mere existence of laws is not sufficient to prove that a State party is carrying out its obligation under the Covenant. For example, while considering the Canadian report, a member of the Committee commented that, 'When reports focused too narrowly on legal aspects, the suspicion naturally arose that there might be some gap between law and practice.'

In addition to laws, the Committee has also stressed the need for 'provision of judicial remedies with respect to rights which may, in accordance with the national legal system, be considered justifiable.'

### **Meaning of 'Achieving Progressively'**

It is normally assumed that due to the resources required for the realization of economic, social and cultural rights, they are incapable of immediate implementation. On the other hand, the Committee has stated that,

'The fact that realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être*, of the Covenant that is to establish clear obligations for States parties in respect of the full realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal.'

The Committee has made it clear that 'progressive realization' is not an escape clause. Such an interpretation provides activists an important conceptual perspective against the notion of 'gradualism' in economic policies. It means that ensuring social welfare is a gradual long - term process where the growth of the economy will percolate to everyone. However, most often growth becomes an end in itself whether it is socially desirable or not. The position of the Committee seems to be that the process of economic growth should be combined with the realization of human rights.

The Committee has also concluded that 'progressive realization' includes not only continuous improvement but also the obligation to ensure that there are no regressive developments. The Committee has stated that, 'any deliberately retrogressive measures . . . would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum of available resources.'

### **Meaning of 'To the Maximum of Its Available Resources'**

The notion that economic resources are essential for the implementation of economic, social and cultural rights has been the major justification for considering it secondary to civil and political rights. The Committee has acknowledged the importance of resources in fulfilling the rights but does not consider that resource availability as an escape clause. For example, it has stated that 'in cases where significant numbers of people live

in poverty and hunger, it is for the State to show that its failure to provide for the persons concerned was beyond its control.'

The Committee developed the idea of 'minimum core obligations' to refute the argument that lack of resource' hinders fulfillment of obligations. The Committee has observed that every State has a minimum core obligation to satisfy minimum essential levels of each of the right of the Covenant. It has clarified that a State party 'in which a significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is prima facie, failing to discharge its obligations under the Covenant.... In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.'

The Committee has made it clear that, 'even where the available resources are demonstrably inadequate, the obligations remains for a State party to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances.' In addition, the Committee has also stated that, 'even in times of severe resource constraints . . . vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes.

### **Draft Optional Protocol**

The Committee on Economic, Social and Cultural Rights, at its 15th session held in Geneva from 18 November to 6 December 1996, concluded its consideration of a draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights granting the right of individuals or groups to submit communications (complaints) concerning non-compliance with the Covenant. The elaboration of the draft optional protocol was recommended during the 1993 World Conference on Human Rights.

The report of the Committee on the subject (E/CN.4/1997/105) was submitted for consideration by the Commission on Human Rights at its 53rd session held in Geneva, from 17 March to 25 April 1997. The draft optional protocol has yet to be officially adopted by the relevant United Nations organs. Comments, suggestions, recommendations and observations on the draft Optional Protocol could be sent to the Office of the High Commissioner for Human Rights in Geneva ([webadmin.hchr@unog.ch](mailto:webadmin.hchr@unog.ch)).

### **Rights Under the Covenant**

- Article 6: The right to work
- Article 7: Just and favourable conditions of work
- Article 8: The right to form and join trade unions

- Article 9: The right to social security
- Article 10: Protection of the family
- Article 11: The right to an adequate standard of living (food, housing)
- Article 12: The right to health
- Article 13: The right to education



## **International Convention on the Elimination of All Forms of Racial Discrimination**

### **Overview**

In 1965, the General Assembly provided the world community with a legal instrument by adopting the International Convention on the Elimination of All Forms of Racial Discrimination (CERD). The Convention came into force in 1969. As of November 2, 2003, 169 States have become parties to the Convention (7 States are remaining signatories).

Under the Convention, States parties are pledged:

- To engage in no act or practice of racial discrimination against individuals, groups of persons or institutions, and to ensure that public authorities and institutions do likewise;
- Not to sponsor, defend or support racial discrimination by persons or organizations;
- To review government, national and local policies and to amend or repeal laws and regulations which create or perpetuate racial discrimination;
- To prohibit and put a stop to racial discrimination by persons, groups and organizations; and
- To encourage integrationist or multiracial organizations and movements and other means of eliminating barriers between races, as well as to discourage anything which tends to strengthen racial division.

### **Monitoring Mechanism**

Part II of the Convention established the Committee on the Elimination of Racial Discrimination (CERD). This Committee was the first body created by the United Nations to monitor and review actions by States to fulfill their obligations under a specific human rights agreement.

The Convention establishes three procedures to make it possible for CERD to review the legal, judicial, administrative and other steps taken by individual States to fulfill their obligations to combat racial discrimination. The first is the requirement that all States parties to the Convention must submit periodic reports to CERD. A second procedure in the Convention provides for State-to-State complaints. The third procedure makes it possible for an individual or a group of persons who claim to be victims of racial discrimination to lodge a complaint with CERD against their State.

## **Provisions**

*Article 1* of CERD defines racial discrimination as follows: "In this Convention, the term "racial discrimination" shall mean any distinction, exclusion, restriction or preference, based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life . . ."

*Article 2* requires States parties to pursue, without delay, a policy of eliminating racial discrimination and promoting understanding, and to take special and concrete measures, when warranted, to ensure the adequate development and protection of certain racial groups.

*Article 3* requires States parties to prevent and eradicate racial segregation and apartheid.

*Article 4* requires States parties to condemn propaganda and organizations that promote racial superiority, hatred and discrimination, and adopt measures to eradicate incitement of such acts.

*Article 5* guarantees the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, and includes the right to security of person and protection by the State against violence or bodily harm.

*Article 6* requires States parties to assure effective remedies for those whose rights have been violated.

*Article 7* requires States Parties to promote understanding and tolerance and to adopt immediate and effective measures to combat prejudice and racial discrimination.

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

### Overview

'The Convention on the Elimination of All Forms of Discrimination Against Women is perhaps best described as an international bill of rights for women as it sets out in detail both what is to be regarded as discrimination against women and the measures that have to be taken in order to eliminate this discrimination. Women's rights are conceptualized as human rights and a "non-discrimination" model is adopted, so that women's rights are seen to be violated if women are denied the same rights as men.'

The Convention was adopted by the General Assembly of the United Nations on 18 December 1979. It entered into force on 3 September 1981. As of November 2, 2003, 174 States have become parties to the Convention (1 State is a remaining signatory). The Convention has one Optional Protocol.

The preamble recalls that the elimination of discrimination against women and the promotion of equality between women and men are central principles of the United Nations Charter and constitute binding obligation under it. It further states that discrimination against women violates the principles of equality and obstructs women's participation, on equal terms with men, in the political, social, economic and cultural life of their countries.

### Monitoring Mechanism

Article 17 of the Convention on the Elimination of All Forms of Discrimination against Women establishes the Committee on the Elimination of Discrimination against Women to oversee the implementation of its provisions. The Committee is composed of 23 experts and has since its inception, with only one exception, been composed entirely of women.

Under article 18 of the Convention, States parties are required to submit reports every four years to the Secretary-General of the United Nations on legislative, judicial and other measures that they have taken in accordance with the provisions of the Convention. These reports are for consideration by the Committee. The Committee has developed two sets of general guidelines for reporting in an effort to provide practical technical assistance to States parties.

### Provisions

The provisions of the Convention are divided in to six parts. The first four deal with substantive rights.

### **Part I**

Articles 1- 6 include the definition of discrimination against women. In addition, they also include legal, administrative and other measures that should be taken by State parties under the Convention.

### **Part II**

Articles 7 - 9 contain obligations of States regarding the protection of women's rights in political and public life.

### **Part III**

Articles 10 -14 contain provisions regarding elimination of discrimination against women in the field of education, employment, health, and economic, social and cultural life. This part also includes obligation of States regarding special problems of rural women.

### **Part IV**

Articles 15 -16 contains provisions regarding affording equality of women with men before the law, in the exercise of their legal rights, and in marriage and family law.

### **Part V**

Articles 17 - 22 deals with the establishment of a Committee on the Elimination of Discrimination Against Women to monitor the progress of the implementation of the Convention by State parties.

### **Part VI**

Articles 23 - 30 deals with other procedural issues including provision for making reservation while ratifying or acceding to the Convention.

### **ARTICLE 1: Definition of Discrimination Against Women**

Article 1 defines what constitutes "discrimination against women". The Convention defines discrimination against women broadly. Under the Convention "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of hampering the enjoyment by women of their human rights. The rights enshrined in the Convention applies to all women, irrespective of their marital status. It prohibits discrimination in "political, economic, social, cultural, civil or any other" fields. More important, it covers discrimination in public and private ("or any other") actions. The Convention prohibits intentional and unintentional discrimination.

### **ARTICLE 2: Obligations of State Parties to the Convention**

This article requires that State parties take appropriate constitutional, legal and administrative measures to guarantee equality. They also have an obligation to provide remedies and sanctions for public and private acts of discrimination and to repeal discriminatory laws. The States parties must take measures to eliminate practices that either risks threatening or actually threatens the enjoyments of the rights contained in the Convention.

### **ARTICLE 3: Obligation to Take Measures for Ensuring Equality Between Men and Women**

Article 3 provides for equality between men and women which is a precondition for women's full enjoyment of human rights. The obligations of States parties includes development of appropriate programmes and measures to advance the status of women so that they can enjoy human rights on a basis of equality with men.

### **ARTICLE 4: Obligation to Take Positive Measures**

Article 4 recognizes that State parties besides removing discriminatory practices should also take positive action to promote equality. Thus, it acknowledges that to ensure de facto equality, it may be necessary to take measures that discriminate in a positive way. The article also specifies that the adoption of special measures aiming at the protection of maternity shall not considered discriminatory

The Committee in its general recommendation no. 5, stated that, States parties make more use of temporary special measures such as positive action, preferential treatment or quota systems to advance women's integration into education, economy, politics and employment".

### **ARTICLE 5: Obligation to Take Measures for Elimination of Prejudices and Stereotyping of Sex Roles**

The purpose of article 5 is to ensure that States parties take steps to modify social and cultural patterns of conduct elimination of prejudices based on the inferiority or superiority of either of the sexes and stereotyping of sex roles.

Article 5(b) recognizes that maternity has a social function. It states that men and women have a common responsibility in the upbringing of their children. The interest of the child should be fundamental in all actions taken by parents.

The Committee in its General Recommendation no. 3, stated that,

The Committee based on the reports submitted by State parties has stated that the reports show existence of varying degrees of stereotyped conceptions of women. The Committee has urged, 'all States parties effectively to adopt education and public information programmes, which will help eliminate prejudices and current practices that hinder the full operation of principle of the social equality of women'.

### **ARTICLE 6: Suppression of All Forms of Trafficking and Exploitation of Women**

This article obligates State parties to take measures to suppress all forms of trafficking in women. It also calls action against those who profit from the exploitation of women, including the exploitation of girls.

The Committee in its General Recommendation No. 19 dealing with violence against women has stated that poverty and unemployment increase opportunities for trafficking in women. The Committee has also stated that, 'in addition to established

forms of trafficking there are new forms of sexual exploitation, such as sex tourism, the recruitment of domestic labour from developing countries to work in developed countries, and organized marriages between women from developing countries and foreign nationals. These practices are incompatible with the equal enjoyment of rights by women and with respect for their rights and dignity'.

### **Optional Protocol**

Under the Optional Protocol to the Convention, the Committee on the Elimination of Discrimination against Women is authorized to receive complaints from individuals claiming to be victims of violations of rights contained in the Convention.

## Convention on the Rights of the Child

### Overview

The UN General Assembly adopted the Convention on the Rights of the Child (CRC) in 1989. The Convention came into force in 1990. An unprecedented number of States have ratified or acceded to the Convention. As of November 2, 2003, 192 States have become parties to the Convention (2 States are remaining signatories).

The Convention contains 54 articles and encompasses the whole range of human rights - civil, political, economic, social and cultural. The Convention recognizes the indivisibility of rights. The Convention provides for the enjoyment of rights by children without discrimination of any kind. The Convention recognizes the child as a subject and guarantees the freedom of expression and participation in making decisions affecting their rights. The Convention takes into account the situation of children of minority and indigenous groups and deals with children threatened by drug abuse and neglect.

### Fundamental Principles of the Convention

#### Respect for the Child's Opinion

The corollary to children as subjects of rights is the principle that their opinion should be respected. It means that the child has the right to freedom of expression, freedom of thought, freedom of conscience and freedom of assembly.

#### Each Child has Rights

The recognition that children have equal value as adults implies that each child has rights. The principle that all children should enjoy rights is fundamental to the Convention. The principle is based on the notion that children are subjects and not objects of the rights. Moreover, children should enjoy their rights without discrimination. It means that girls should be given the same opportunities as the boys. Similarly, disabled children and children of disadvantaged groups should enjoy the same rights as others.

#### Equal Value as Human Beings

An underlying principle of the Convention is that of according children the same value as adults. This principle stresses that childhood has value in itself. It is not merely a preparatory stage for adulthood. The implication of this principle is that the society has an obligation to create conditions for the child to enjoy his or her childhood.

#### Best Interests of the Child

While children have equal value as grownups they also need the protection and support from the society for enjoying their childhood. The principle of best interests of the child

addresses this need. This principle is most clearly stated in article 3 ( 1 ) of the Convention.

'In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.'

The interests of the child take precedent over the interests of parents or the state. The principle as stated in article 3 (1) applies to 'all actions concerning children' and not restricted to legal or administrative proceedings.

### **Monitoring Mechanism**

The Convention sets up a Committee on the Rights of the Child to monitor the State parties compliance of their obligations under the Convention. The Committee consists of ten independent experts. All State parties should submit a report within two years after the ratification or accession to the Convention. The initial report should be followed by reports every five years. The reports submitted by State parties are normally considered within a year of their submission. The Committee strives to achieve this deadline despite its enormous workload. State parties in preparing their reports are expected to follow the guidelines provided by the Committee. The Convention is the only treaty that accords a role for NGOs in assisting the Committee to monitor the compliance of State parties obligations.

### **Provisions**

#### **Article 1**

This article defines the child as a person below the age of 18 years. The article also allows for situations in which the age at majority is fixed lower than 18. However, the Convention by explicitly stating 18 provides a benchmark for defining the child.

#### **Article 2**

This article provides that the rights enshrined in the Convention apply to all children without any distinction. The grounds on which no discrimination should be practiced include disability. Under this article States parties are obligated to 'take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.'

#### **Article 3**

This article ensures that the 'best interests' of the child is taken into account in all actions concerning the children. The interests of the child take precedent over the



interests of parents or the state. The principle as stated in article 3 (1) applies to 'all actions concerning children' and not restricted to legal or administrative proceedings.

The principle of 'best interests' of the child plays a vital role in the interpretation and implementation of the Convention. It is important in clarifying the rights enshrined in the Convention. The principle is also vital in mediating and resolving conflicts that may arise in implementing the Convention. Finally, it is a useful tool for assessing the laws and practices of State parties in protecting the rights of the child.

#### **Article 4**

This article stipulates that State parties should undertake concrete steps for ensuring the enjoyment of rights recognized in the Convention. The article also stresses that State parties should undertake measures 'to the maximum extent of their available resources'. The implication of this provision is that State parties should give priority for children and they should invest maximum of available resources to ensure the economic, social and cultural rights of the child. Article 4 also provides that ensuring the rights of the child should be a priority for international cooperation.

#### **Article 5**

This article respects parental rights. The State should respect the responsibilities, rights and duties of parents or legal guardians to provide 'appropriate direction' in the exercise by the child of his or her rights. Parental guidance should be provided 'taking into account the evolving capacities of the child.' It means that the child should have more control with greater age and maturity.

#### **Article 6**

This article recognizes the inherent right to life of every child. Under article 6(2) States parties have an obligation to ensure the survival and development of the child. The States should ensure it to the maximum extent possible. The use of the term 'survival' is unusual for human rights treaties. Thus, the right to life assumes a dynamic aspect and the obligation of the State parties includes taking preventive action such as immunization. The term 'development' should be interpreted in a broad sense to include physical, mental, emotional, social and cultural development. The right to life guaranteed by article 6 creates the conditions for the enjoyment of other rights enshrined in the Convention.

### **Optional Protocols**

There are two optional protocols under the Convention: The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflicts, and the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

## Appendix 6: Processes and Activities of Monitoring – Answer Key

