

**Human Rights Monitoring
and Documentation Series**

Volume 1

**WHAT IS
MONITORING**

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**HURIDOCS
2003**

HURIDOCS CIP:

TITLE: What is monitoring

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CORPORATE AUTHOR: Human Rights Information and Documentation Systems, International - HURIDOCS

PLACE OF PUBLICATION: Versoix [Switzerland]

PUBLISHER: HURIDOCS

ADDRESS: 48, chemin du Grand-Montfleury, CH-1290 Versoix, Switzerland

TELECOMMUNICATIONS:

DATE OF PUBLICATION: 20030500

PAGES: 42 p.

REFERENCE TO SERIES: Human rights monitoring and documentation series; vol. 1

ISBN: 92-95015-04-5

LANGUAGE: ENG

BIBLIOGRAPHIES: Y

INDEX: information handling / information

FREE TEXT: This practical manual is intended for documentalists and information workers of human rights organisations. It deals with the following issues: what is monitoring, purposes of monitoring, types of monitoring, methods of monitoring, and data analysis.

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WHAT IS MONITORING

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ACKNOWLEDGEMENTS

Many thanks to Ding Bagasao, Aida Maria Noval and Jonathan Kuttab who reviewed the text and provided very helpful additions and suggestions that greatly aided in its improvement.

Direction and support were provided by the members of the HURIDOCS Continuation Committee:

Kofi Kumado, Chairperson (Ghana)
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Aurora Javate De Dios (Philippines)
Judith Dueck (Canada)
Jonathan Kuttab (Palestine)
Aída María Noval (Mexico)

HURIDOCS is supported by the following donors whose contributions made possible the publication of this manual:

Danish Ministry of Foreign Affairs
Department for International Development, U.K.
Finnish Ministry of Foreign Affairs
French Prime Minister's Office
International Development Research Centre, Canada
Mertz Gilmore Foundation, U.S.A.
Norwegian Agency for Development Cooperation
Swedish International Development Agency

PREFACE

This volume is part of the **Human Rights Monitoring and Documentation Series** produced by HURIDOCS. The Series consist of practical manuals aimed to help build the capacity of human rights organisations with regard to monitoring and documentation. There are two kinds of manuals in the Series: a "**what is**" manual provides an overview of a certain topic, and a "**how to**" manual is meant to impart specific skills.

What is Monitoring aims to help human rights workers understand better the whole subject of monitoring. It introduces to the reader many concepts and specialised terminology in this field, and gives an overview of the various bodies involved in human rights monitoring. It serves as a very suitable introductory reading material before moving on to various books and other materials on the subject of monitoring and documentation.

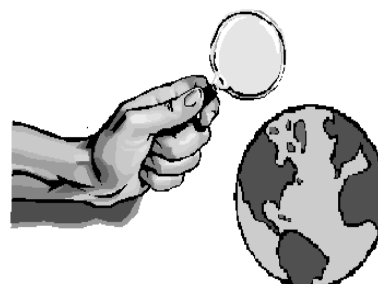
The volumes in this Series are especially designed for small non-governmental human rights organisations, considering that they often have limited resources and small staff who are assigned with multiple tasks. The handy size of the manuals make them excellent reference materials. In addition, they are written in a style to facilitate learning and could serve effectively as materials for training, including individualised and self-initiated learning.

1. WHAT IS MONITORING IN GENERAL

1.1 Elements of Monitoring

Monitoring means the close observation of a situation or individual case carried out so as to determine what further action needs to be taken. The following elements constitute monitoring:

- a. It is carried out over an extended period of time.
- b. It involves collecting or receiving a large quantity of data.
- c. Close observation of the situation is done through constant or periodic examination or investigation and documentation of developments.
- d. Standards or norms are used as reference in objectively assessing the situation or case in question, especially in determining what is wrong with it.
- e. Tools or instruments are used in identifying how the situation compares with established standards or norms.
- f. The product of monitoring is usually a report about the situation.
- g. The report embodies an assessment of the situation which provides a basis for further action.



Monitoring means the close observation of a certain situation.

1.2 Standards or Norms

Norms or standards are common, accepted or agreed-upon characteristics or ways of behaviour of persons, things, events or situations. A case or situation is considered abnormal if it exhibits characteristics that deviate from recognised norms. It means that there is a problem that needs to be corrected.

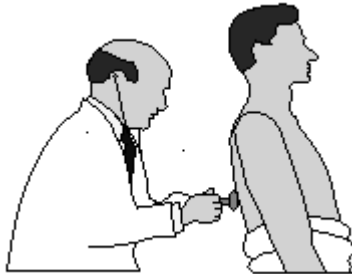
We can take as an example the case of a person sick with fever. A relevant norm in this case pertains to body temperature. The person is said to have abnormal body temperature if it is beyond 37.5°C. The problem that needs to be remedied is the fever, or more precisely, the cause of the fever.

In society, norms of behaviour are usually those that are followed or expected to be followed by the greatest number of its members, e.g., norms of dressing. Norms may not only be “what are” but also “what should be”. In this regard, norms can be dictated by agreements which are to be followed or implemented by the parties that entered into the agreements.

Many of the norms or standards contained in agreements among nations concern the conduct of state authorities in the performance of their duties. In arresting suspected criminal offenders, for instance, police officers should not employ force that is more than necessary. In jailing criminal offenders, there should be sufficient space allocated per prisoner, and it would be a violation of an accepted standard to squeeze several prisoners in a small cell.

1.3 Tools or Instruments for Monitoring

When a doctor examines a patient, several tools are used. The thermometer for instance is used to check body temperature while the stethoscope is used for listening to the sounds made by the heart and lungs. The findings are then ranged against accepted norms. Abnormal findings could indicate an illness.



In finding out what the situation is in society, an example of a tool is the questionnaire used when conducting a survey. The survey returns are afterwards analysed to form a judgement. Usually, the purpose is to get an indication of the problems that need to be addressed. For instance, if the literacy rate in a certain locality is five times lower than the national average, it is an indication that the delivery of educational services in the area is not working.

Whatever the kind or scope of monitoring, it is always necessary to use recording tools. Doctors keep medical records of patients, lawyers take down testimonies and human rights organisations use standard formats to record details of violations.

1.4 Reporting the Results of Monitoring

Monitoring is done to serve a purpose, which is to provide a basis of action in the face of a certain situation or case. It often involves finding out what is wrong and also finding out whether remedies intended to correct problems are working. It is therefore necessary that the persons undertaking monitoring regularly produce information, in the form of reports. These reports detail the events or findings in a given period and should provide an over-all assessment, indicating whether there are changes from one period to another, such as an improvement or a deterioration of the situation. The reports therefore form the basis for further action, by the persons actually doing the monitoring, or by other parties being asked to intervene.

Monitoring can go on indefinitely. It can also be stopped, especially when it is determined that the situation has improved so as not to warrant further monitoring. For instance, a doctor curing a patient can stop monitoring when a patient has recovered from illness.

2. WHAT IS HUMAN RIGHTS MONITORING

2.1 Basic Human Rights Principles

Human rights are universal, to be enjoyed by everyone regardless of race, colour, sex, language, religion, political or other opinion or orientation, national or ethnic origin, social origin, property or other status. Yet, for various reasons, certain individuals or groups experience denial or transgression of their rights. The reason could be highly political such as in the case of an authoritarian leader suppressing all form of opposition. Or it could be the dominance of the majority (e.g., ethnic, cultural, religious or linguistic) to the exclusion of the minority.

Human rights principles assert that all human beings are equal – and all should thus be afforded ways to enjoy rights equally. Moreover, they recognise the reality that there some groups are at a disadvantage compared to others. In other words, some kinds of individuals and groups are more vulnerable to being victimised than others. Additional rights are identified for these so-called vulnerable groups in order to ensure their protection. Among these groups are women, children, refugees, minorities, indigenous peoples, ageing persons and disabled persons.

2.2 The Work of the Human Rights Community

Human rights organisations can be grouped into governmental and quasi-governmental, intergovernmental, and non-governmental organisations. These can be found at various levels: international, regional, sub-regional, national and local. The many tasks implemented by these organisations fall under the areas of standard-setting, enforcement of standards, institution-building, education, promotion, law reform, situation monitoring and casework. The greater part of NGOs perform direct services through casework, such as in providing legal assistance in the pursuit of justice, or in providing relief and rehabilitation services to specific victims.

Standard-setting refers to the work of inter-governmental organisations (IGOs) that elaborate human rights declarations, conventions, covenants and other international instruments and enjoin states to abide by their provisions. Among the IGOs that carry out human rights standard-setting are:

- a) the United Nations (U.N.) and its sub-bodies
- b) specialised agencies related to the U.N. like the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO)
- c) regional bodies like the African Union, the Organisation of American States and the Council of Europe.

2.3 International Human Rights Standards

Standards are set and expected to be met so that human rights are enjoyed equally and vulnerable groups are protected accordingly. These standards are contained in international instruments, referring to declarations, conventions, covenants, treaties and other agreements among States. Their very universalism gives them normative authority and prevents human rights discourse from turning into political posturing since these standards apply to everyone equally.

An example of a human rights standard is in relation to the right to life. Article 6 paragraph 1 of the *International Covenant on Civil and Political Rights* states that “No one shall be arbitrarily deprived of his life”. As for the treatment of prisoners, standards can among others be found in the instrument *Standard Minimum Rules for the Treatment of Prisoners*.

Another example of a standard concerns the protection of children through the specification of a minimum age for employment. Some relevant paragraphs in this regard are found in the *ILO Convention 138 concerning the Minimum Age for Admission to Employment*, as follows:

Article 2, paragraph 1: “Each Member for which this Convention is in force undertakes to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons.”

Article 2, paragraph 3: “The minimum age specified in pursuance of paragraph 1 of this Article shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years.

2.4 Kinds of International Human Rights Instruments

The numerous instruments on human rights can be categorised as follows:

- general and special instruments
- global and regional instruments
- binding and non-binding instruments

A **general instrument**, such as the *Universal Declaration of Human Rights*, comprises a wide range of human rights. A **special instrument** on the other hand deals with specific subjects such as rights of women, rights of the child, employment, freedom of information, etc.

Global instruments are those produced by global organisations like the United Nations and the International Labour Organisation. **Regional instruments** are those produced by regional mechanisms like the African Union, Organisation of American States and the Council of Europe.

Instruments could be **binding** or **non-binding** on States. Declarations such as the *Universal Declaration of Human Rights* or the *American Declaration on the Rights and Duties of Man* are not legally binding, but just the same form part of international law and are often quoted in national law and jurisprudence. They are expressions of good intentions and as such carry great moral force. A non-binding instrument also has an impact on a bigger number of States because it is adopted by the whole governing body of an IGO, such as the United Nations General Assembly.

Instruments that are legally binding are covenants, conventions and other agreements such as the *International Covenant on Civil and Political Rights* and the *International Covenant on Economic, Social and Cultural Rights*. A certain process is followed before an instrument becomes legally binding on a state. The usual process is through signature and ratification. **Signature** refers to the signing of the instrument by a government, which thereby declares its intention not to do anything contrary to the provisions of the instrument. **Ratification** refers to the confirmation of the signature, as effected through an official vote by the country’s legislature, and in so doing agreeing to be legally bound to the instrument. For some states, specifically those where the executives also wield lawmaking functions, a single act of **accession** takes the place of the two-act process of signature and ratification. Accession achieves the same purpose as signature and ratification, that of making

the instrument legally binding. States that ratified or acceded to binding instruments are referred to as State Parties or Contracting Parties.

Some instruments have protocols. A **protocol** is an agreement that is a supplement to a main instrument. An example is the *Optional Protocol to the International Covenant on Civil and Political Rights* which allows the U.N. Human Rights Committee to receive complaints from individual victims. As the title implies, it is optional for a State Party to ratify or accede to it. The individual complaint procedure therefore is not binding to all State Parties that ratified or acceded to the *International Covenant on Civil and Political Rights*, but only to those who ratified or acceded to its protocol.

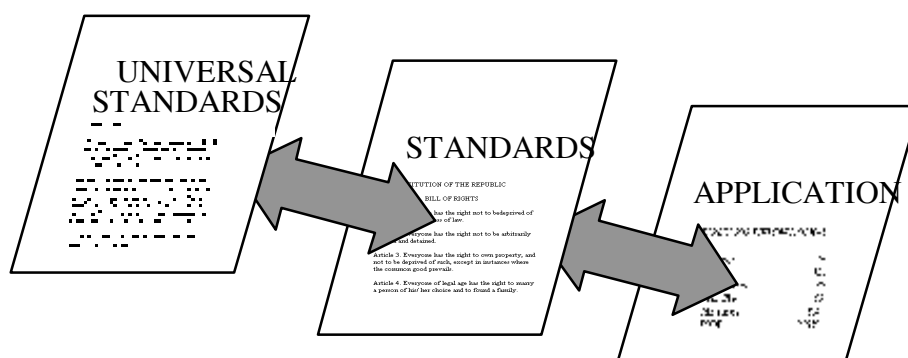
States have two kinds of obligations: moral obligations with respect to non-binding instruments and legal obligations with respect to instruments which they signed and ratified or acceded to. States are expected to meet their obligations by passing domestic laws and by ensuring that these laws are implemented.

On the next pages is a table showing some examples of instruments grouped according to the above categories. For a more complete listing of international instruments, see the list International Instruments in *Micro-thesauri: A Tool for Documenting Human Rights Violations*.

		GLOBAL	REGIONAL
GENERAL	NON-BINDING	<ul style="list-style-type: none"> • Universal Declaration of Human Rights 	<ul style="list-style-type: none"> • American Declaration of the Rights and Duties of Man
	BINDING	<ul style="list-style-type: none"> • International Covenant on Civil and Political Rights • International Covenant on Economic, Social and Cultural Rights 	<ul style="list-style-type: none"> • European Convention for the Protection of Human Rights and Fundamental Freedoms • American Convention on Human Rights • African Charter on Human and Peoples' Rights
SPECIAL	NON-BINDING	<ul style="list-style-type: none"> • Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities • Basic Principles for the Treatment of Prisoners • Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 	<ul style="list-style-type: none"> • Declaration on Education for Democratic Citizenship (Council of Europe) • Inter-American Declaration of Principles On Freedom of Expression • Declaration on the Rights and Welfare of the African Child (African Union)
	BINDING	<ul style="list-style-type: none"> • International Convention on the Elimination of All Form of Racial Discrimination • Convention on the Rights of the Child • ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value 	<ul style="list-style-type: none"> • European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment • OAS Convention on Asylum

2.5 Human Rights Monitoring

Human rights monitoring is undertaken to see whether international human rights standards or norms are met in domestic settings.



Monitoring is done to see whether there are gaps between universally-accepted standards and those set through domestic (national) legislation. . .

. . . or between domestic standards and how they are applied or met in reality.

2.6 Kinds of Monitoring

Human rights monitoring can be of two general kinds, depending on their focus: situation monitoring and case monitoring. Under each kind, there can be various forms, as summarised below:

- a. situation monitoring
 - i. monitoring human rights violations
 - ii. monitoring the drafting and passing of legislation
 - iii. monitoring the implementation of laws and policies
 - iv. monitoring the establishment and progress of human rights institutions
- b. case monitoring
 - i. monitoring the legal process undergone by a case
 - ii. monitoring relief and rehabilitation services provided to a client
 - iii. monitoring other forms of intervention in a case

Situation monitoring focuses on a situation in general. Many human rights groups for instance 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. The different forms of situation monitoring are useful for the purpose of monitoring government compliance with treaty obligations or for domestic monitoring purposes, for example to be able to undertake denunciation and public awareness activities.

Case monitoring is very focused and victim-oriented. 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, is called casework. Following and documenting the developments in the case of a client is an essential and integral part of casework.

Humanitarian groups tend to conduct more victim-oriented monitoring. The majority of human rights NGOs work both towards changing a general situation and in response to specific needs of victims and thus carry out situation monitoring and case monitoring at the same time.

The scope of monitoring can be broad or narrow, with variations in terms of:

a. rights covered

Monitoring can cover a broad scope, e.g., for preparing a report on the performance of the government in regard of civil and political rights, or specialised, e.g., for preparing a report on the phenomenon of disappearances in one country.

b. target groups

Monitoring can cover the whole population or be focused on specific sectors like children, ethnic minorities, workers, prisoners, etc.

c. geographical scope

The usual coverage of monitoring done by human rights groups is country-wide. There are groups that focus on smaller areas, e.g., a depressed local region in a country, or wider areas, e.g., monitoring the situation of child workers in South Asia.

Many human rights organisations combine several of the above forms of monitoring, although there are organisations that confine monitoring to special aspects: for example, rehabilitation centres monitor medical interventions. These forms of monitoring are further discussed in succeeding chapters.

2.7 Monitoring, Investigation and Documentation

Monitoring involves the repeated collection of information. Often, it involves investigating and documenting a large or representative number of human rights events. **Investigation** refers to the process of finding out the facts surrounding an event which carries or is suspected to carry one or more human rights violations. The term investigation is synonymous with fact-finding. In some forms of monitoring, the more precise term is **examination** rather than investigation. For instance, medical care-givers conduct periodic health examinations in monitoring the progress of rehabilitation of victims.

Documentation means the recording of the results of an investigation or examination.

Documentation is very important, especially when proof is needed for the advocacy of human rights issues. More than this, documentation is needed so that the facts can always be revisited, especially for purposes of comparison of past and current situations. Data compiled over a period of time can be analysed so as to get a fuller picture of the issues at stake.

3. WHY MONITOR

3.1 Aims of Monitoring

The most common general purpose of monitoring is to be able to pinpoint what is wrong with a situation or a case and to indicate what steps can be taken to remedy it. Monitoring is also undertaken to see whether steps that have been taken to improve a situation are working. Most activities that are carried out in response can be therefore considered as reactive.

However, monitoring is also undertaken to be able to provide early warning. **Early warning** refers to the presentation of an assessment of a certain situation citing the likelihood of the outbreak of conflict, especially violent conflict, well in advance so that mechanisms of intervention can be set up before the actual outbreak.

Human rights monitoring has the following particular purposes, among others:

- a. to assist governments in applying international standards;
- b. to be able to pressure governments into adopting and implementing international standards;
- c. to be able to undertake domestic legal actions like taking cases to court;
- d. to be able to undertake other actions like denunciations and publicity campaigns, with the goal of bearing pressure on the government and/or to enhance public awareness
- e. to be able to help particular victims; and
- f. to be able to provide early warning in potential conflict areas.

The first aim is for U.N. treaty-monitoring bodies, while the next four are generally the aims guiding the work of human rights NGOs. The last aim is pursued by specialised inter-governmental and non-governmental bodies alike.

3.2 Users of Monitoring Results

Diverse governmental, intergovernmental and non-governmental bodies undertake monitoring, usually for internal use and based on their own particular mandates. Human rights activists working in NGOs for instance conduct direct monitoring by promptly investigating reports of human rights violations and undertaking immediate intervening actions. The members of treaty-monitoring bodies of the U.N. conduct monitoring so that they will have the necessary information to call the attention of governments regarding compliance with their treaty obligations. NGOs and IGOs dealing with conflict prevention or transformation carry out monitoring so as to be able to provide early warning.

There are also external users of the information derived from monitoring, notably **policy-makers** and **scholars**. It must be stressed that an important part of the work of NGOs is lobbying for change in legislation, thus the results of monitoring should be brought to the attention of policy-makers, such as parliamentarians. Scholars, such as those belonging to the academic world, also oftentimes undertake an indirect kind of monitoring by selecting certain situations for analysis and soliciting information from various sources. The conclusions reached by scholars in highlighting problems in society could and should be utilised in working for policy changes.

A very important specific kind of users consists of quasi-governmental organisations like national truth and/or justice commissions, as well as ad hoc and permanent criminal tribunals. The results of

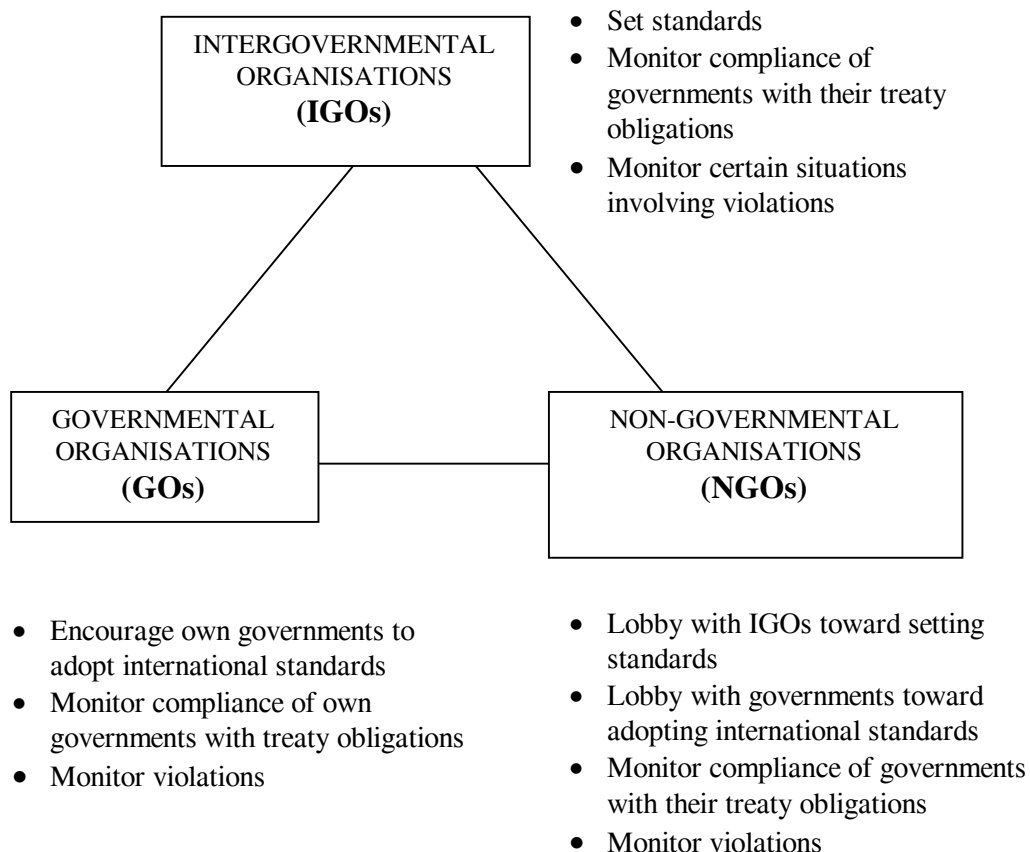
monitoring by NGOs over many years can be fed into these bodies in the quest for justice or the acknowledgement and elaboration of a historical past.

Other users can be researchers, lawyers, other human rights NGOs, cause-oriented groups and the public in general. Activist groups, for instance, may use the information derived from monitoring in denouncing policies of the state. The specific uses and methods may vary, but the ultimate aim is the same, which is to seek to change an abnormal human rights situation.

4. WHO MONITORS

4.1 Standard-Setting and Monitoring Tasks

Human rights promotion and protection all over the world is accomplished primarily through the dynamic interplay of three kinds of actors – inter-governmental, governmental and non-governmental organisations. With regard to human rights standards, these actors usually have the following tasks:



The above types of organisations, especially the NGOs, can be found at various levels – international, regional, sub-regional, national and local. The work that a type of organisation does often complements or provides a balance to the work of others. For instance, in the area of monitoring the compliance of State Parties with their obligations, the monitoring IGO body primarily receives information from the governments themselves. It also obtains information from NGOs to corroborate the government reports.

4.2 Monitoring by the U.N. and Other IGOs

The United Nations is a very big organisation with various divisions and affiliated organisations, many of which deal with human rights. These often have overlapping functions, so much so that it is difficult to present its complicated set-up in simple terms. However, it is possible to pinpoint which bodies are directly engaged in human rights monitoring, namely:

- Treaty-based committees
- Special Rapporteurs and other bodies under the U.N. Commission on Human Rights
- some specialised agencies

a. Monitoring by Treaty-Based Committees

Six major international human rights instruments elaborated by the U.N. contain in their texts provisions for the establishment of committees with the task of monitoring their implementation. These treaty-based committees are composed of independent experts who are nominated by their governments but are expected to act independently. The main monitoring procedure employed by these committees is exercised by requiring State Parties to submit regular reports.

Below are the six major human rights instruments, their respective monitoring committees, and the respective reporting requirements for the State Parties:

INSTRUMENT	MONITORING COMMITTEE	REPORTING REQUIREMENTS
International Covenant on Civil and Political Rights	Human Rights Committee	Initial report within one year of the Covenant's entry into force; subsequent reports every five years thereafter
International Covenant on Economic, Social and Cultural Rights	Committee on Economic, Social and Cultural Rights	Initial report within two years of the Covenant's entry into force; subsequent reports every five years thereafter
International Convention on the Elimination of All Forms of Racial Discrimination	Committee on the Elimination of Racial Discrimination	Initial report within one year after the entry into force; subsequent reports every two years thereafter and whenever the Committee so requests
Convention on the Elimination of All Forms of Discrimination against Women	Committee on the Elimination of Discrimination against Women	Initial report within one year after the entry into force; subsequent reports after every four years thereafter and whenever the Committee so requests
Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment	Committee against Torture	Initial report within one year after the entry into force; subsequent reports every four years thereafter
Convention on the Rights of the Child	Committee on the Rights of the Child	Initial report within two years after the entry into force; subsequent reports every five years thereafter

To illustrate how a treaty-based committee performs its task, below is a brief description of how the *Human Rights Committee* works.

- 1) The Committee consists of 18 members serving for a four-year term. It elects from among its members a Chairperson, three Vice-Chairpersons and a Rapporteur.
- 2) It holds three sessions of three weeks each per year - one in New York (March/April) and two in Geneva (July and October/November).
- 3) Each session is preceded by sessions of the working groups it has created. An important working group is the one that prepares the “list of issues” that the Committee would like to bring up with the State Party whose report is to be considered.
- 4) The “list of issues” is transmitted to the concerned government through its Permanent Representative to the United Nations.
- 5) During the Committee meeting, the representatives of the reporting government provide the Committee with oral replies to the written questions. It is at this point that the Committee usually poses various questions to the representatives. Its questions can be informed from different sources, such as from the press and from non-governmental organisations.
- 6) The outcome of the consideration of a State Party report can be:
 - concluding comments: conclusions reached by the Committee which can include, among others, a section on factors and difficulties affecting the implementation of the Covenant, a section on positive aspects, a section on main subjects of concern, and a section on suggestions and recommendations of the Committee.
 - general comments – comments that are relevant to all State Parties or to the question of civil and political rights in general, intended to clarify the provisions of the Covenant and thus assist State Parties in applying the provisions and in fulfilling their reporting obligations.
- 7) The Committee submits an annual report to the U.N. General Assembly. The report contains a summary of the activities of the Committee, as well as all its decisions and recommendations, including concerns that it has expressed in regard of a situation in a particular country.

The procedures followed by other committees are almost similar to those followed by the Human Rights Committee. A main difference is that the Human Rights Committee also receives individual complaints which it can raise with a reporting government. This is made possible by the coming into force of the *Optional Protocol to the International Covenant on Civil and Political Rights*. A similar protocol is being contemplated for the *International Covenant on Economic, Social and Cultural Rights*. Exceptionally, the *Convention against Torture* has a provision that also allows individual complaints.

b. Monitoring by Bodies under the U.N. Commission on Human Rights

The Commission on Human Rights is a large body which meets once a year for six weeks in Geneva. Its membership rotates among the countries that belong to the U.N. Each member government appoints a delegation to attend the Geneva meeting. These are not independent experts like the treaty body members, but very much represent their government’s positions.

The Commission does not by itself conduct monitoring. Rather, it should be seen as the forum in which monitoring results could be aired and discussed. NGOs which are accredited by the U.N. can attend the Commission meetings and present interventions during the open plenary sessions.

There are however bodies under the Commission that undertake monitoring of situations, although limited in some cases. These are the different Special Rapporteurs and Working Groups, and the Sub-Commission on the Protection and Promotion of Human Rights (previously known as the Sub-Commission on Prevention of Discrimination and Protection of Minorities). They undertake monitoring in the sense that they collect information from various sources, analyse the collected information, and in some cases take action such as referring the cases to the concerned governments.

Moreover, they all produce reports which are usually taken up during the annual sessions of the Commission on Human Rights. The monitoring they conduct, on the other hand, may be limited in one or more ways:

- 1) Monitoring is incidental to the main purpose of the agency. For instance, the exact mandate of a thematic Special Rapporteur is to examine questions related to the theme assigned to her/him and to recommend steps to prevent and or respond to violations. Monitoring of selected situations is therefore done for the purpose of fulfilling the given mandate.
- 2) The method of gathering information may be limited. Some bodies conduct occasional fact-finding missions. Most of these bodies collect information by receiving communications. A communication is a complaint sent by a victim or by others working on behalf of victims, describing an alleged violation of a right or, or in the case of the “1503 procedure” (described below), an alarming human rights situation, and asking for intervention by the addressee. As such, the communications received, together with the missions so far conducted, may not, in their totality, accurately represent the country or global situation.

A Special Rapporteur is an expert appointed by the Commission on Human Rights to look into an area or subject of human rights violations. There are two kinds of Special Rapporteurs: country Special Rapporteurs and thematic Special Rapporteurs. In 2003, among the countries under investigation by Special Rapporteurs we re: Afghanistan, Burundi, the Democratic Republic of the Congo, countries of the Former Yugoslavia, Iraq, Myanmar, Palestinian occupied territories and Sudan. Meanwhile, thematic Special Rapporteurs (or Independent Experts or Special Representatives of the Secretary-General) have been named to study questions on the following subjects:

- Adequate Housing
- Contemporary forms of Racism, Racial Discrimination and Xenophobia
- Draft optional protocol to the International Covenant on Economic, Social and Cultural Rights
- Extrajudicial, Summary or Arbitrary Executions
- Freedom of Opinion and Expression
- Freedom of Religion or Belief
- Health
- Human Rights Defenders
- Human Rights and Extreme Poverty
- Human Rights of Indigenous People
- Human Rights of Migrants
- Illicit Movement and Dumping of Toxic Waste
- Independence of Judges and Lawyers
- Internally Displaced Persons
- Mercenaries
- Protection from Enforced or Involuntary Disappearance
- Right to Development
- Right to Education
- Right to Food
- Sale of Children, Child Prostitution and Child Pornography
- Structural Adjustment Policies and Foreign Debt
- Torture
- Violence against Women

The Working Groups are small committees appointed by the Commission on Human Rights to look into particular issues. Some current working groups are: Working Group on Enforced or Involuntary Disappearances and Working Group on Arbitrary Detention.

The usual method of work followed by Special Rapporteurs and Working Groups consists of receiving communications and taking action on those that merit response. The usual action is done by forwarding the communications to the concerned government, often asking simply for further information, but sometimes making concrete requests like the release of deserving detained persons. The Special Rapporteurs and Working Group members also occasionally visit countries to directly investigate serious situations.

Another body that conducts monitoring in a sense is the Sub-Commission for the Protection and Promotion of Human Rights (previously known as the Sub-Commission on Prevention of Discrimination and Protection of Minorities), a body under the Commission on Human Rights. It follows the so-called “1503 procedure” named after Resolution 1503 of the U.N. Economic and Social Council. In gist, the Sub-Commission tries to examine whether there is a distinct pattern of violations in any given country and whether such pattern has reached a level of gross and systematic violations. The various steps comprising the “1503 Procedure” are:

- 1) Under the Sub-Commission is the Working Group on Communications that receives and analyses communications together with government replies. The communications must describe situations and will be admitted only if they show reasonable grounds to believe that consistent patterns of violations exist.
- 2) When the Working Group considers that there is reliable evidence of a consistent pattern of violations in one country, it submits the relevant communications to the Sub-Commission
- 3) The Sub-Commission studies all the country situations referred to it by the Working Group, and decides which ones should be referred to the Commission on Human Rights for further action.
- 4) Further action on a country situation may be undertaken by the Commission on Human Rights by making a report with recommendations to a higher organ, the Economic and Social Council. The Commission may also decide to appoint an *ad hoc* committee to make a thorough investigation, but this however requires the consent of the State where the violations are alleged to have happened.

All actions regarding a country situation remain confidential, until such time when the Commission decides to bring the matter to the Economic and Social Council, in which case the country situation may be discussed publicly in various U.N. forums. Only a few countries, mainly those ruled by authoritarian regimes, have reached the point of being referred to the Economic and Social Council, and such is an indication that the situation in the country is indeed alarmingly bad.

c) Monitoring by Specialised Agencies

Some other IGOs elaborate instruments for adoption by their governing bodies. The most notable of these is the International Labour Organisation. Its governing body, the International Labour Conference, is the instance that adopts Conventions. States Parties that have acceded to or ratified the Conventions are required to submit periodic reports which are first of all examined by the Committee of Experts on the Application of Conventions and Recommendations, and, subsequently, by the tripartite Conference Committee on the Application of Conventions and Recommendations.

There are other U.N. specialised agencies that produce reports which are the results of ongoing monitoring efforts. For instance, UNESCO and WHO regularly compile statistics on education and health respectively from all over the world. A good source of information regarding the performance

of all countries in terms of development and human rights indicators is the Human Development Report, an annual publication commissioned by the United Nations Development Programme (UNDP).

d) Monitoring by Regional IGOs

Three regions – Europe, Americas and Africa – have existing inter-governmental bodies which have elaborated conventions on human rights. The conventions have provided for the establishment of regional machineries (including human rights courts) to monitor their implementation. The table below shows the regional governing bodies, the treaties they elaborated, and the bodies created to monitor their implementation:

GOVERNING BODY	REGIONAL INSTRUMENT	IMPLEMENTING BODIES
Organisation of American States	American Convention on Human Rights	Inter-American Commission on Human Rights; Inter-American Court of Human Rights
African Union	African Charter on Human and Peoples' Rights	African Commission on Human and Peoples' Rights; African Court on Human Rights (being established)
Council of Europe	European Convention for the Protection of Human Rights and Fundamental Freedoms	European Court of Human Rights

The Inter-American Commission on Human Rights and the African Commission on Human and Peoples' Rights conduct monitoring by reviewing periodic reports from State Parties. There used to be a European commission with a similar task, but since 1998 the European Court of Human Rights has served to oversee the implementation of the European Convention. The various regional human rights courts are expected to rule on matters concerning the interpretation or application of the regional conventions.

4.3 Monitoring by Government Bodies

A national human rights institution is usually any of the following:

- a. human rights commission – a body composed of several members usually from diverse backgrounds which discharge various functions (usually different from one commission to another) that range from human rights education to investigation of complaints.
- b. ombudsman – an individual or group of persons generally appointed to protect the rights of individuals who believe themselves to be the victim of unjust acts on the part of the government
- c. specialised commission – a body composed of several members which function to protect the rights of a particular vulnerable group such as ethnic and linguistic minorities, indigenous populations, children, refugees or women.

National human rights commissions are generally mandated to study international standards, encourage their governments to adopt these, and call the attention of their governments if the adopted standards are not met. One way through which they monitor the compliance of their governments with obligations is by making contributions to the required periodic reports.

A common duty of national human rights commissions as well as specialised commissions is to call the attention of the government to areas of violations and instances of discrimination in the country. Many human rights commissions, either national or specialised, and certainly the national ombudsmen, are mandated to monitor violations, especially if a complaints procedure is in place.

4.4 Monitoring by NGOs

Human rights NGOs accomplish among them a wide range of activities, such as human rights education, advocacy and direct services to victims, with the majority carrying out monitoring, both of situations and of individual cases of victims. The usual focus of situation monitoring by NGOs is on violations. Some NGOs have broad mandates (e.g., monitoring of violations of civil and political rights) while others are specialised (e.g., responding to cases of disappearances, torture, etc.). Also, diverse types of groups like development NGOs, women groups and community-based groups have gradually included a human rights approach in their work. Thus, the whole spectrum of human rights – from individual to collective rights, from civil and political to economic, social and cultural rights – is increasingly being monitored nowadays.

In the provision of direct services, NGOs are bound to carry out case monitoring. It could be the legal situation of a victim that is monitored or the progress of her/his rehabilitation. The modalities of case monitoring are further discussed in Chapter 7.

NGOs have now gone beyond monitoring direct violations, to monitor also the compliance of their governments with treaty obligations. Moreover, some NGOs have been actively taking part in the activities of treaty-monitoring bodies, such as in the submission of alternative or “shadow” reports. The subject of “shadow” reports is discussed in Chapter 9.

5. HOW AND WHERE TO GET DATA

5.1 Methods of Data Gathering

Monitoring can be the sustained conduct of investigation and documentation activities. In this regard, all the methods of fact-finding, when employed regularly and consistently, can be rightfully considered as methods of monitoring. Among these are: interviewing, ocular inspection, trial observation, collection of relevant documents, use of photographic and other recording instruments, and forensic examination. Two or more of these methods are usually combined in any fact-finding activity. For instance, a fact-finding mission into a community where violations happened can be carried out by interviewing the residents, undertaking ocular inspection and taking pictures.

5.2 Survey

A very common method of monitoring, one that usually combines interviewing and use of standard recording tools, is the survey method. It is especially employed in association with the use of indicators (discussed in the next chapter). A **survey** is the gathering of similar kinds of data from among a number of respondents, so as to be able to take a general or comprehensive view of or appraise a situation. Surveys can be taken with the aid of interviewers, or through self-administered questionnaires.

Sometimes it may not be possible to reach the whole population, in which case a sample survey is taken. There are three kinds of samples:

- a. haphazard sample – the sample that is taken simply because it is what the data gatherer can get under the circumstances. For instance, a researcher may decide to interview all persons that he/she finds at a particular place at a particular time.
- b. judgmental sample – the sample that is chosen with a specific criterion used. For instance a researcher may decide to interview an equal number of representatives of ethnic groups in an area.
- c. probability sample – the sample that is chosen using a random method of selecting respondents. For instance, before interviewing the residents of a community, a lottery is conducted to determine which houses will be approached.

For most kinds of data, probability samples are better than the other types. Using this type of sample allows to project findings from the sample populations to the larger populations they represent. For instance, a random sample of 60 households may be interviewed in a community of 300 households. If it is discovered that 45 of the interviewed households (75%) fall below the poverty line, then it would be sound to state that it is very probable that around 225 households in the community fall below the poverty line.

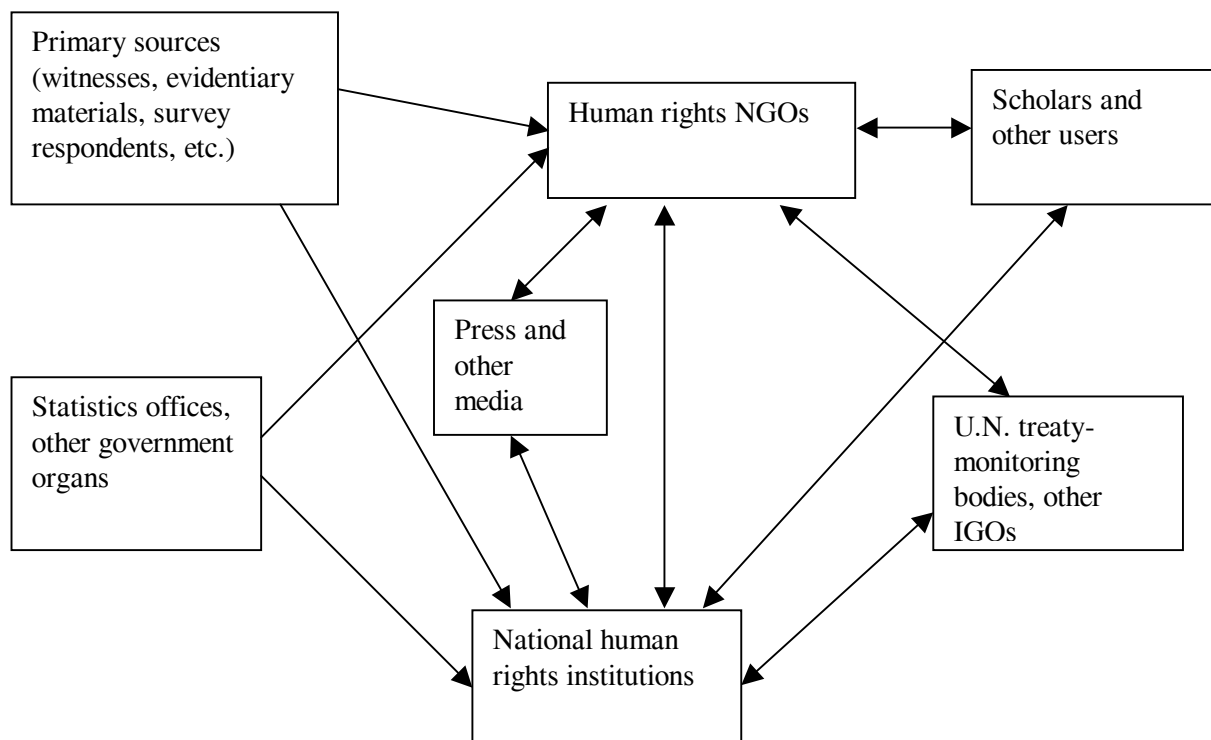
Results of surveys using haphazard and judgmental samples are also valid, provided that the methods of data gathering are made explicitly clear.

5.3 Collection of Relevant Documents

The collection of relevant documents is a tried and tested method of investigation and documentation. This method has been institutionalised into a procedure followed by treaty-monitoring bodies, namely periodic reporting. On the part of NGOs, they should actively attempt to acquire relevant documents such as reports by various government organs, on a regular basis.

5.4 Where to Get Data

In general, the sources of data can be governmental or non-governmental. Below is a chart that shows the usual flow of human rights information.



Those who undertake direct monitoring, such as human rights NGOs, usually have as sources the people actually involved in the events being investigated, as well as evidentiary documents like death certificates, etc. External users such as scholars and policy-makers, usually take material from NGOs, as well as other bodies such as governmental agencies, as their sources. U.N. treaty-monitoring bodies mainly receive reports from governments, but they also consider information from other sources.

It can be noted that the information often is used again by local and national bodies. For instance, the UNDP report is based on many national reports and its assessment of country performance is increasingly being quoted in NGO publications.

5.5 The Use of Standard Formats and Controlled Vocabularies in Monitoring

a) *Standard Formats*

A **format** is an empty form, consisting of fields, on which information can be recorded. The form can be on paper, a layout on a word processor, or an entry layout within a database program. Fields are spaces in which pieces of information can be entered. A record is produced each time a format is completed. A **standard format** is a format with a definite number of fields, arranged in a pre-determined way, with prescribed notes for the entry of data in each field.

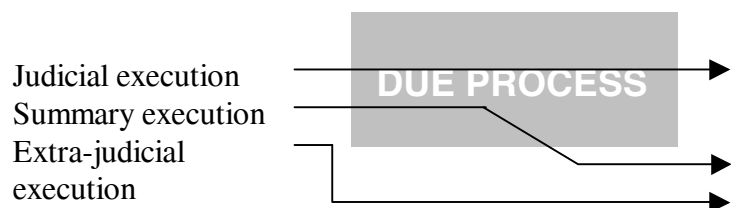
Standard formats are an essential tool in monitoring. They are most commonly used as questionnaires in surveys, and as recording formats in the documentation of information on victims, the violations they suffered and other related information.

HURIDOCS has developed several standard formats for use in monitoring violations. Their use is discussed in Chapter 6, *The “Events” Monitoring Methodology*.

b) Controlled Vocabularies

A **controlled vocabulary** is a list of terms used by documentation workers to represent concepts such as the characteristics of an event, person or thing, or the contents of a document. The terms contained in the list are said to be controlled when an effort is made to make them as exhaustive and as mutually exclusive as possible.

To illustrate, we can take the example of killings. Killings can be divided into executions and unpremeditated killings. In turn, executions can be judicial (i.e., the application of the death penalty arrived at through a fair trial), summary (e.g., execution after sentencing by a “kangaroo” court) or extra-judicial (i.e., execution with no judicial process observed at all).



After the different types of executions have been listed, the types of unpremeditated killings should also be included, until an exhaustive list is completed. A list used for classifying killings could look as follows:

1. Deliberate killings
 - 1.1. summary execution
 - 1.2. extra-judicial execution
 - 1.3. judicial execution
2. Indiscriminate/random killings
 - 2.1. killing in demonstrations, crowd control and similar events
 - 2.2. killing in indiscriminate attacks such bombing
 - 2.3. death as a result of being caught in cross-fire
3. Other unpremeditated killings
 - 3.1. death as consequence of torture or brutality
 - 3.2. death from natural causes aggravated by the infliction of physical, psychological and sexual violations
 - 3.3. death resulting from negligence
 - 3.4. death resulting from intention to maim
 - 3.5. killing of a wrong target
4. Unexplained killings and deaths

The compilation of a controlled vocabulary is important so that there is a consistent reference tool for classifying events, persons or things. The list will contain the same categories that are used in statistical generation, thus facilitating data analysis.

A **micro-thesaurus** is a short controlled vocabulary used for a specific field in a standard format. HURIDOCS has published *Micro-Thesauri: A Tool for Documenting Human Rights Violations*,¹ containing numerous micro-thesauri, among them: types of acts, methods of violence employed, types of locations, victim characteristics, kinds of occupations, nationalities, religions, types of perpetrators, etc.

Another useful tool is the *Thesaurus of Economic, Social and Cultural Rights* by Stephen Hansen.² It contains hundreds of terms on the subject of economic, social and cultural rights and could serve as the basis for the design of a monitoring system in this area.

¹ Dueck, Judith, Manuel Guzman and Bert Verstappen. *Micro-thesauri: A Tool for Documenting Human Rights Violations*. Versoix: HURIDOCS, 2001.

² Hansen, Stephen A., *Thesaurus of Economic, Social, and Cultural Rights: Terminology and Potential Violations*. Washington D.C.: American Association for the Advancement of Science and HURIDOCS, 2000.

6. HOW TO MONITOR A SITUATION

6.1 The “Violations” Approach to Monitoring

There are two general approaches used in monitoring human rights situations: the "violations" approach and the "progressive realisation" approach.

The “violations” approach has been used extensively in monitoring civil and political rights, but can also be used for monitoring other types of rights. Simply put, this approach seeks to identify the violations of recognised rights, rather than the steps taken by governments to comply with their obligations. Violations can be very visible acts like killings, arrests, torture and displacements, or less visible acts like the failure of a government to adopt a policy for combating homelessness. Violations can be

- a. acts of commission, by the state or by parties insufficiently regulated by the State
- b. acts of omission by the state

The violations on the part of the state can be seen in terms of its failure to comply with its three different types of obligations. These are:

- a) obligation to **respect**, which is to abstain from doing anything that violates the integrity of the individual or group or infringes on her/his/their freedom.

Examples of violations are such acts as:

- extra-judicial execution (in violation of the obligation to respect an individual’s right to life)
- arbitrary arrest (in violation of the obligation to respect an individual’s right to liberty)
- banning of a trade union (in violation of the obligation to respect a group’s freedom of association)

- b) obligation to **protect**, which is to take the measures necessary to prevent other individuals or groups from violating the rights of the individual or group, including the prevention or infringement of the enjoyment of her/his/their freedom.

Examples of violations are acts like:

- inaction when a certain group, such as an ethnic group, attacks another
- failure to compel companies to pay decent wages

- c) obligation to **fulfil**, which is to take the measures necessary to ensure for each person within its jurisdiction opportunities to obtain satisfaction of those needs which cannot be secured by personal efforts.

Examples of violations are acts of omission like:

- failure to adopt a basic health care system
- failure to implement a free education system on the primary level

6.2 The “Progressive Realisation” Approach

Another monitoring approach, one used in monitoring economic, social and cultural rights, is the “progressive realisation” approach. It stems from Article 2 of the International Covenant on Economic, Social and Cultural Rights which provides that “*each State Party to the Covenant undertakes to take steps, to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the Covenant.*” This approach thus focuses on periodic evaluations of government efforts towards the realisation of economic, social and cultural rights, and comparing the progress made during each period. As such, it requires the collection of a large amount of data over a long period of time, such as through a national census. Thus, this approach is best taken by governments and by IGO bodies which monitor treaties, with the former actually doing the data-gathering and afterwards reporting to the latter.

6.3 The “Events” Monitoring Methodology

Two dominant methodologies in monitoring human rights situations are the “*events*” (or *acts-based*) methodology and the *indicators-based methodology*.

The “events methodology” for monitoring involves identifying the various acts of commission and omission that constitute or lead to human rights violations. In other words, it is a concrete form by which the “violations” approach takes shape.

This methodology involves investigating and documenting an event that is suspected of or confirmed to be consisting of one or more acts considered as violations. For instance, the dispersal of a protest rally is an event which could contain several acts of violations like beatings of rally participants, arrest of rally leaders, etc. Aside from the event and its component acts, information about the persons involved, including the victims and perpetrators, are also recorded. HURIDOCS has developed a set of standard formats for recording the various pieces of events and related information. For a more detailed discussion of the “events” methodology, refer to the book *HURIDOCS Events Standard Formats: A Tool for Documenting Violations*.³

The “events” methodology has been effective in monitoring very visible acts as killings, arrests, torture and the like. Inquiries into less visible acts, especially acts of omission such as instances of inaction by authorities, are now gradually being integrated into this methodology.

A limitation of the “events” methodology is that it usually does not aim, or often fails, to arrive at a complete picture by giving the total number of violations, much less the proportion of actual victims to the whole population. There are two problem areas identified in this regard;

The monitoring body does not hear of all events involving the violations covered by its mandate. Among the reasons for this are the lack of local contacts who could inform on ongoing events, and misconception by the local population in the sense that some acts are not seen as violations. Even if the monitoring body learns of events that are likely to contain violations, it is unable to investigate and document these for reasons such as ongoing military actions, hesitation of witnesses to come forward, and lack of resources.

In a way, the use of the “events” methodology, including the use of the HURIDOCS Events Standard Formats, can be considered as the conduct of a survey involving a haphazard sample. It must be stressed though that “haphazard” here simply refers to the fact that the respondents are

³ Dueck, Judith, Manuel Guzman and Bert Verstappen. *HURIDOCS Standard Formats : A Tool for Documenting Human Rights Violations*. Versoix: HURIDOCS, 2001.

limited only to those that can be reached. There is nothing haphazard at all with the deliberate efforts taken by NGOs in tracking, investigating, documenting and following up cases within their reach.

What is important is to qualify the reports that one issues after using this methodology. Such qualifications can indicate the possibility that there are more violations that had occurred but were not investigated and documented. The report can include a description of the factors that hampered investigation of certain events.

6.4 The Indicators-Based Monitoring Methodology

An indicator is a tool that shows where something is, what direction it is leading to, and how far it is from that objective. It serves as a sign or symptom that tells what is wrong in a situation and helps in pointing out what needs to be done to fix the problem. Examples of indicators are:

- in the area of education: adult literacy rate
- in the area of health: infant mortality rate
- in the area of political participation: proportion of seats in Parliament held by women
- in the area of access to information: ratio of telephone lines to population

There are two kinds of indicators: result indicators and process indicators. A **result indicator** measures the outcome of efforts, or the lack of them, by the state to meet a particular obligation. It is therefore an indication of the current status of the enjoyment of a certain right. A **process indicator** on the other hand measures the degree to which the state is complying with its obligations.

For example, a state has the obligation to increase literacy among its citizens. A result indicator would be the literacy rate, while a process indicator would be the number of schools in the country. Another example concerns the obligation to reduce deaths among newly-borns. A result indicator would be the infant mortality rate, while a process indicator would be the proportion of children immunised against childhood diseases.

A **benchmark** is the level that is aimed to be met when using a certain indicator. An example of a benchmark, when using adult literacy rate as an indicator, is 75% literacy among adults nation-wide.

There are many indicators already used by various IGOs such as the World Health Organisation and the United Nations Development Programme to measure the status of economic and social conditions within countries. These indicators can be used as they are or may need to be adapted for local use, at the same time that NGOs can develop their own indicators.

While indicators have been employed mainly in the field of economic, social and cultural rights, especially by development organisations, they are equally applicable in the area of civil and political rights. An example has been given above (proportion of seats in Parliament held by women). Another example would be the percentage of persons tortured among all those arrested.

Also, indicators can be used in both the “violations” and “progressive realisation” approaches. If a State Party failed to meet the minimum obligations to fulfil a certain right, it can right away be considered a violation. Also, if a benchmark is not met, or if a government does not set any target to be met to begin with, this can also be construed immediately as a violation on the part of the government. As for the “progressive realisation” approach, the findings over a period of time using both process and result indicators could show whether a state is meeting its various obligations.

Overall, indicators are very valuable in expressing the magnitude of the problems in a certain situation. However, their use cannot replace the “events” methodology, especially in addressing

grave violations like killings, evictions and disappearances. Also, a main weakness of the indicators-based methodology lies in the fact that the focus is removed from the individual. In human rights work, it is often necessary to know the details concerning victims, especially if direct assistance is to be given.

On the other hand, it must be recognised that with sufficient data gathering, and with the aid of tools and techniques for data analysis, the results of monitoring events can be transformed into indicators. For instance, if there are sufficient and well-chosen samples that show the proportion of tortured persons among all those arrested in local areas, a national projection can be made to give one indication of the state of police conduct in handling arrested persons.

In short, the combination of the “events” methodology and the indicators-based methodology should result in a comprehensive and detailed picture of a situation. This is especially needed in the field of early warning, where information on the magnitude and nature of violations as well as on economic and political realities is crucial to determine whether a situation is on the verge of plunging to conflict.

6.5 Monitoring Laws and Policies and their Implementation

A substantial part of monitoring a country situation is studying the laws of the country and finding out if there is progress in keeping with international standards.

First, it is necessary to find out what instruments have been signed, ratified or acceded to by a government. Afterwards, a good place to start the study of national legislation is with the country’s national Constitution, if there is one. A Constitution normally contains a Bill of Rights, and it would be easy to determine how the provisions compare with universal standards. Afterwards, specific laws that have been passed by the country’s legislature can be studied. Many of the laws relevant to human rights can be found in national penal codes, for instance.

Laws pertain not only to those passed by the legislature. For instance, decisions by judicial bodies, especially by the Supreme Court or the highest court in a country, become part of a law, and are normally referred to as case law.

It must be borne in mind that laws have different levels of effectivity. Some laws are self-enacting, while others need enabling laws for them to take effect. For instance, the Constitution may contain a provision stating in general that torture is prohibited. This general statement, to be effective, would require an enabling law to be passed by the legislature which should include, among others, the definition of torture as a crime with corresponding penalties when committed.

The next step after studying existing laws is to monitor bills that are being proposed, drafted, debated or passed in legislative bodies. The substance of each bill can be reviewed to see whether its provisions warrant support or opposition. Moreover, NGOs can monitor how individual legislators vote in relation to human rights issues, to form a concrete basis for lobbying plans.

An important piece of legislation concerns the national budget. Budget analysis can be done to see whether the government has adopted policies and is serious in implementing these.

Annual reports of government organs from the national to the local levels can be studied to see if laws, policies, programs and plans are implemented as intended. The various benchmarks set as

targets by governments, usually contained in multi-annual development plans, can be used as standards.

6.6 Monitoring the Establishment and Progress of Human Rights Institutions and Other Government Bodies Dealing with Human Rights

The *Principles Relating to the Status and Functioning of National Institutions for the Protection and Promotion of Human Rights*, often referred to as the Paris Principles, were adopted in 1991 in Paris at an international workshop convened by the U.N. Centre for Human Rights, and subsequently endorsed by the Commission on Human Rights in 1992. The Paris Principles provide a set of international standards that can be used in monitoring the establishment and performance of such agencies as national human rights commissions, ombudsmen and specialised commissions.

The judiciary can also be regarded as a human rights institution in a way, as it is often the recourse of citizens in seeking remedies for human rights violations. Hence, some organisations, including international NGOs, monitor the independence of the judiciary. There is also a designated UN Special Rapporteur on the Independence of Judges and Lawyers.

Institutions that deal with education and training may also be studied. For instance, it would be valuable to determine whether basic human rights values are integrated in school curricula. Professional training of government officials can also be looked into, especially in the case of law enforcement authorities and the armed forces.

7. HOW TO MONITOR A CASE

7.1 Casework

What constitutes a case is determined by the responding organisation. Normally, it is the situation of an individual in regard of a certain aspect, e.g., legal or health. It is usually marked by the time when an intervening organisation started providing a service until the termination of that service.

Legal casework deals with court matters and other legal processes that are undergone by the case of a client in the quest for justice. The case should be monitored closely to ensure that the rights of the client are not violated. For instance, many international instruments list a multitude of rights that an accused and arrested person should enjoy, among them:

a. When arrested:

- Right to release in case of unlawful arrest

b. When accused and put on trial:

- Right to presumption of innocence
- Right to adequate time and facilities to prepare defence
- Right to trial by an impartial judiciary
- Right to trial by an independent judiciary
- Right to fair trial
- Right to public trial
- Right to free assistance of an interpreter
- Right to equality of arms
- Right to prompt and detailed information
- Right to prompt trial
- Right to legal assistance
- Right to *non bis in idem* (not to be tried or punished for an offence for which the accused has already been acquitted or convicted)
- Right to determination of criminal charges
- Right to access to court
- Right to communication with defence
- Right to examination of witnesses
- Right to *nulla crimen sine lege* (not to be charged with a crime, if the act was not so defined in law applicable at the time the act was committed)
- Right to *nulla poena sine lege* (not to be punished by a heavier penalty than the one that was applicable at the time the offence was committed)
- Right to be heard in person
- Right to freedom from giving self-incriminating evidence
- Right to release pending trial (such as by posting bail)

c. When sentenced:

- Right to appeal
- Right to seek commutation of sentence
- Right to seek pardon

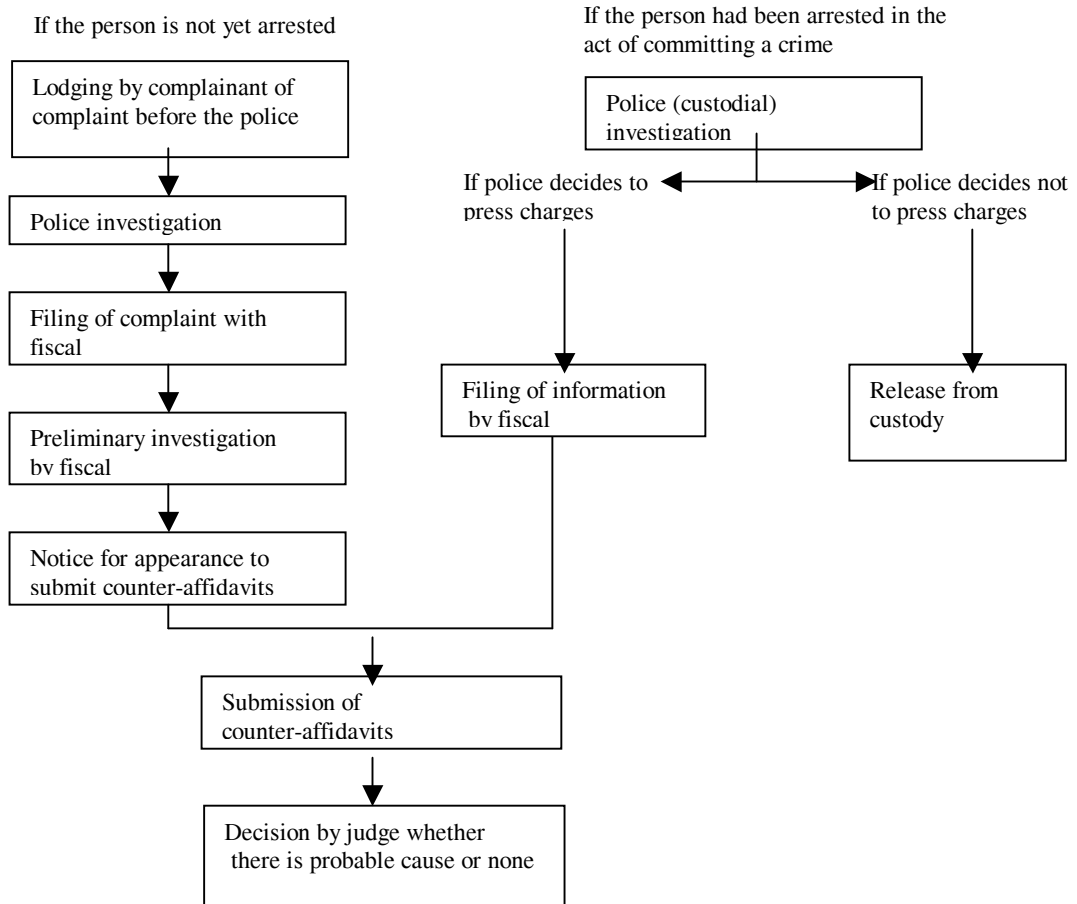
It must be noted that the right to freedom from giving self-incriminating evidence has to be observed even before a person is accused and put on trial, starting with the time when a person is arrested.

In monitoring the case of an arrested person, the fact-finder should discover whether the right sequence of procedural steps was followed. For instance, the proper procedure in the arrest of a person suspected of having committed a crime entails that a preliminary investigation by a competent authority should be made first, which then serves as the basis for the issuance of a warrant of arrest. The only way that this specific procedure can be ignored is when a person is arrested *en flagrante delicto* (in the act of committing a crime).

Moreover, what can also be monitored are the respective lengths of time between different phases. Many types of violations against accused persons are in the form of statutory time limits not being respected. For instance, normally, an arrested person can only be held for a limited number of hours without charges. It would be a violation of his/her right if charges are not brought against him/her promptly or if he/she continues to be held with no charges filed. Another example of a common violation is when a trial drags on for a very lengthy period of time.

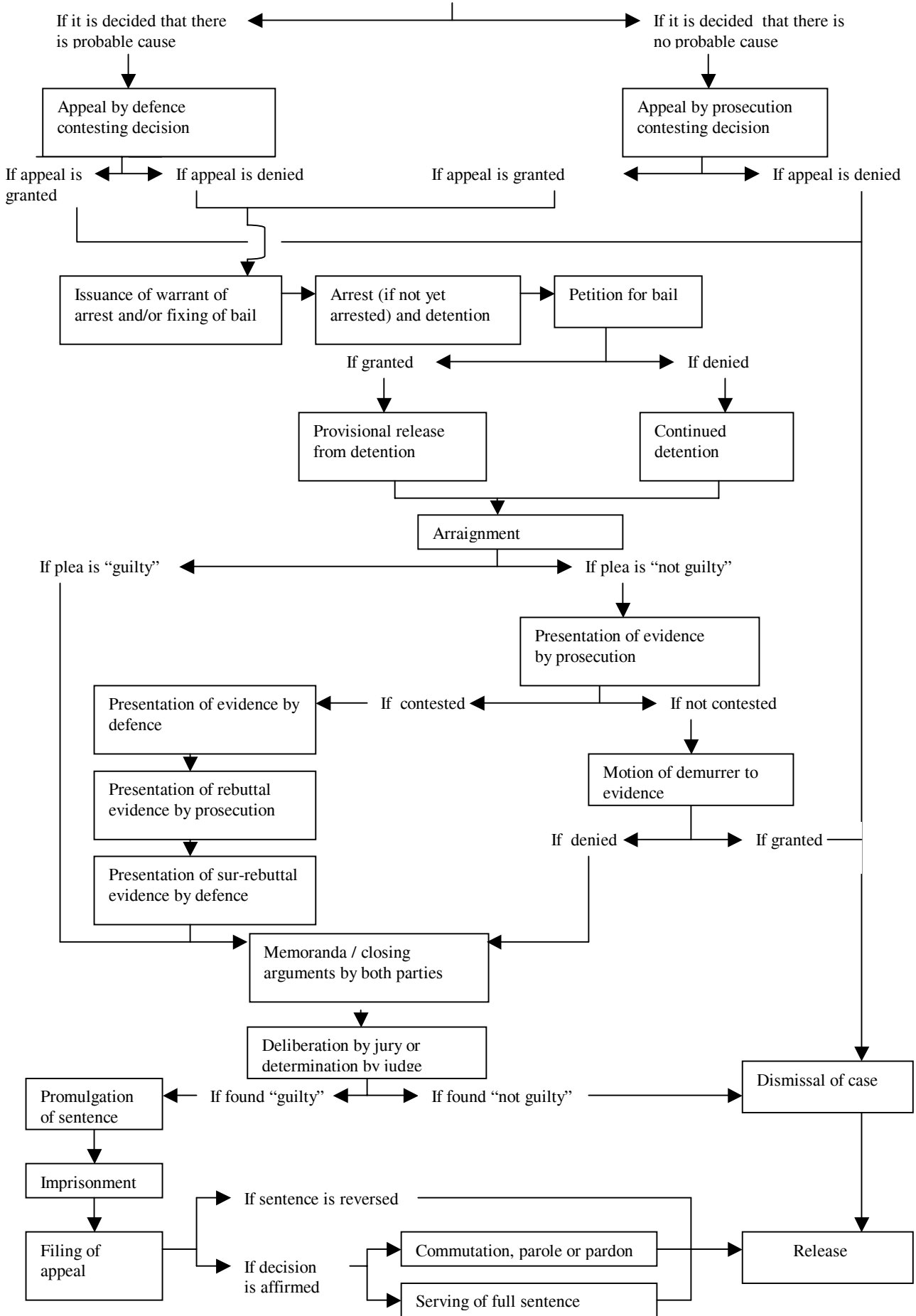
For purposes of illustration, on the next two pages is a flowchart showing the usual phases in a case involving an accused and arrested person. Please note that what is presented are standards in a certain country that may not apply in others. It is possible for the reader to develop a similar flowchart, to be consulted in monitoring the progress of the case of an accused and arrested victim.

Flowchart used for Monitoring the Case of an Accused/Arrested Person



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7.2 Monitoring the Rehabilitation of Clients

Another area of casework that NGOs engage in is the rehabilitation of victims of torture and other causes of trauma. The steps that are usually taken by the responding NGO are:

- a. Acceptance of client, such as through referral from other NGOs
- b. General assessment of the client's situation, to include documentation of the following:
 - Personal Information
 - Event information (the violation, its circumstances and related information)
 - Injuries and consequences
 - Medical and Psychological History
 - Family, economic and legal situation
- c. Development of a rehabilitation plan
 - Medical assessment and suggested treatment
 - Mental health assessment and suggested counselling activities
- d. Implementation of rehabilitation plan
- e. Evaluation of rehabilitation
- f. Closure of case

7.3 Using Standard Formats and Controlled Vocabularies for Case Monitoring

While standard formats and controlled vocabularies are very useful in monitoring situations, they are also equally useful in case monitoring. The *HURIDOCs Events Standard Formats* in particular include formats for recording information on specific details of cases like arrests, torture and killings, as well as details on related legal developments. There are corresponding *Micro-thesauri* to use in recording these details, such as those enumerating methods of torture, types of detention and types of courts. Moreover, there is a format specifically used for recording interventions such as legal, medical or other forms of assistance. Users can in fact modify the format to make it more appropriate for local use, such as in monitoring the rehabilitation of trauma victims.

8. HOW TO ANALYSE DATA

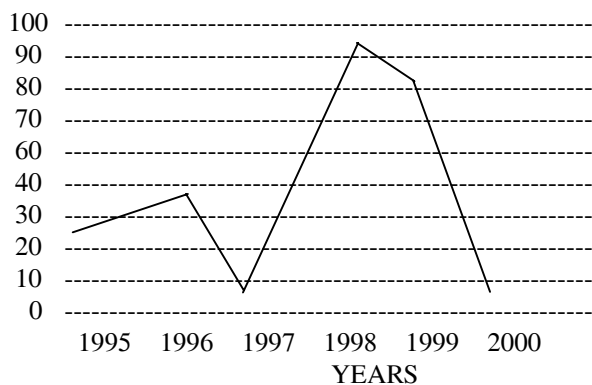
Monitoring aims to identify and expose the problems that can be found in a given situation, as well as to take note of progress. There is need for data analysis to unearth problems or signs of improvement that are not discovered at first glance, to show their ramifications, or to present the findings in a clearer and more convincing manner. There are various tools and techniques of data analysis that can be used, and a few of them are discussed here for purposes of illustration, namely: time series, use of charts or plots, and cross-tabulation.

Time series is a series of values (measurements or counts) occurring at successive times. For instance, the following is a set of time series data:

Year	Number
1995	26
1996	41
1997	12
1998	97
1999	83
2000	11

Table 1. Number of extra-judicial executions in Country X

The graphic presentation of data through charts and plots enhances visibility and allows the determination of patterns more readily. For instance, the data above can be presented as a time series plot as follows:



Graph 1. Number of extra-judicial executions in Country X

Deeper analysis of data can be made by correlating variables. For instance, let us suppose that in a certain town, 73 persons were arrested for violation of curfew. Of the 73 persons, 40 belong to the majority ethnic group, while 22 belong to the minority ethnic group. Everyone is detained but for different durations, ranging from 1 day to 4 days. To determine whether there is correlation between length of detention and ethnicity, a cross-tabulation can be made as follows:

Duration of detention	Ethnicity		
	Majority	Minority	Total
1 day	28	3	31
2 days	7	5	12
3 days	4	10	14
4 days	1	4	5
TOTAL	40	22	62

Table 2. Correlation between ethnicity and length of detention of arrested persons in Town X

It can be easily seen that indeed there is correlation between the two variables (length of detention and ethnicity). The findings could become even more evident if the figures are translated to percentages and charts are drawn up from the figures.

If the appropriate controlled vocabularies are drawn up (such as the HURIDOCS *Micro-thesauri*) and employed, it is possible to generate various statistical outputs. For instance, one can output statistics about victims disaggregated in terms of type of victimisation, sex, ethnic background and any other criteria, singly or in combination. Similarly, it is possible to show various kinds of information about perpetrators, such as their levels of involvement, areas where the events in which they are involved occurred, etc.

The reader can consult the book *Data Analysis for Monitoring Human Rights*⁴ for a more elaborate discussion of the available tools and techniques for human rights data analysis.

⁴ Spirer, Herbert F., and Louise Spirer. *Data Analysis for Monitoring Human Rights*. Washington D.C.: American Association for the Advancement of Science in co-operation with HURIDOCS, 1993. New edition forthcoming.

9. WHAT MORE CAN BE DONE

This manual attempts to provide an overview of monitoring, showing various avenues for work by human rights organisations. One avenue is working with intergovernmental bodies, especially the treaty-monitoring bodies.⁵

The Office of the U.N. High Commissioner for Human Rights has not been cited in the discussion of monitoring activities by IGOs. It must be stated however that it plays a crucial role in monitoring, which is basically by coordinating the programs and activities of the various human rights bodies. For one, it discharges the secretariat functions needed by the various treaty-based committees. It is also a rich source of information in discovering what is being done by various U.N. bodies to promote and protect human rights.

Below are other possible kinds of activities that human rights NGOs can do to be more effective in their monitoring work.

9.1 Monitoring Government Plans

An area which NGOs can consider, either for active participation or for monitoring afterwards, is the development of multi-annual economic and social development plans by governments. In many cases, benchmarks are set by governments to comprise these plans. NGOs can undertake mobilisations to air concerns that can be considered by the authorities in the course of planning. When the plans are finalised, the NGOs can use them as the standards in monitoring the achievements of the government.

9.2 Adapting and Developing Indicators

Human rights NGOs should also study existing indicators as used by intergovernmental and governmental bodies, to see whether they are applicable or whether they need some adaptation for local use. It is also possible to develop indicators that NGOs themselves can use, given that they do not possess the resources which governments have in conducting large-scale data collection.

HURIDOCS and the Science and Human Rights Program of the American Association for the Advancement of Science (AAAS) administer a project that aims to develop methodologies for

⁵ To learn more about the intergovernmental bodies – their work and how to contact them – the reader is referred to:

Office of the High Commissioner for Human Rights (Geneva), United Nations Institute for Training and Research (UNITAR) and United Nations Staff College Project (Turin). *Manual on Human Rights Reporting : Under Six Major International Human Rights Instruments*. Geneva: United Nations, 1997.

Office of the High Commissioner for Human Rights, and United Nations Library. *Human Rights on CD-ROM 1999: Bibliographical References to United Nations Documents and Publications*. Geneva: Office of the High Commissioner for Human Rights, and United Nations Library, 1999.

United Nations. Office of Legal Affairs. *Guidelines for the Conduct of United Nations Inquiries into Allegations of Massacres*. New York: United Nations, 1997.

United Nations Centre for Human Rights (ed.). *Human Rights: A Compilation of International Instruments*. vol. 1. New York: United Nations, 1994.

monitoring economic, social and cultural rights. The project will produce a number of manuals that can be used in monitoring specific rights. These rights-specific manuals cover the use of appropriate indicators as tools for monitoring.

9.3 Preparing Shadow Reports

Another avenue that NGOs can consider is the submission of “shadow” or alternative reports. Shadow reports are those prepared by NGOs to provide information that supplements the periodic reports of governments to treaty-monitoring bodies. A shadow report can be comprehensive, equalling the scope of what the government is supposed to report on, or specific, focusing on certain issues, especially particular, persistent and egregious problems. The goal is to make the treaty-monitoring body, as well as the government concerned, aware of the problems as seen by the NGOs.

A number of NGOs should work together in preparing shadow reports. This is so that a broader range of information can be put together. The group also gains more credibility because of its number, and thus should weigh more in the eyes of the treaty-monitoring body or government.

It is best if the group can obtain a copy of the initial report of the government. From there, it can come up with a list of questions related to gaps or inaccuracies in the governmental report. It can submit the list to the treaty-monitoring body, for consideration in the development of “list of issues” to be taken up with the reporting government. It can also use the list of questions as a guide in preparing an alternative report that highlights the inaccuracies and fill in the gaps in the government report.

9.4 Conclusion

While it is suggested that work with intergovernmental bodies should be done, it must be stressed that work in the domestic level remains to be more important. Monitoring should have as its main goals the following: influencing national laws and policies, educating the people and mobilising them on issues of lack or inadequacy of government response. Human rights organisations should use the results of international work, such as comments by treaty-monitoring bodies or findings by U.N. Special Rapporteurs, as additional means available to strengthen the moves made at the national and local levels.

There is also a need for greater collaboration and coordination of work among various NGOs in order to analyse whether real and urgent needs are met. If human rights NGOs with various mandates work together, a collective picture of what is happening in a country may be pieced together, and more effective human rights protection and promotion strategies can be considered and implemented.

GLOSSARY

case - the continuous succession of developments concerning an individual client's situation, especially in regard of a certain aspect, e.g., legal or health, usually marked by the time when an intervening organisation started providing service until the termination of that service

controlled vocabulary - a list of terms or descriptors which are as exhaustive and mutually exclusive as possible, and where preferred terms have been chosen over other possible terms, for use by documentation workers and users in handling information

data - pieces of information which need to be analysed further to arrive at a conclusion. Note that in the field of information science, data is defined as "symbols that need to be processed so as to provide information". In social research, the data that are referred may already be informative at a basic level, but are seen to need further analysis to reveal more information.

documentation - the systematic recording of the results of the investigation of an event or the examination of a client's situation

early warning - the presentation of an assessment of a certain situation citing the likelihood of the outbreak of conflict, especially violent conflict, well in advance so that mechanisms of intervention can be set up before the actual outbreak

event - something that happens, with a beginning and an end, and which progresses until its logical conclusion. It could be a single act, a series of related acts, or a combination of related acts happening together. Moreover, at least one act that it contains should qualify as a human rights violation (e.g., arbitrary arrest which is a violation of the right to liberty), or is akin or similar to such (e.g., legal arrest).

fact-finding - the process of identifying the violations in one event, and establishing the facts relevant to these violations. Fact-finding and investigation are interchangeable terms.

field - the space in a format where a piece of information is recorded, such as a document title, name of author or number of pages

format - an empty form, consisting of fields, on which information can be recorded. The form can be on paper, or a layout on a word processor, or it can be an entry layout within a database program.

micro-thesaurus - a short controlled vocabulary, consisting of terms meant for a specific field

monitoring - close observation of a situation or individual case, carried out over a long period of time, with reference to accepted norms, with the purpose of providing an assessment that serves as basis for further action

record - a description of one thing, person, group of persons, event or any other entity, consisting of data entered in a set of fields. In other words, a completed format is called a record.

standard format - a set of fields, arranged in a pre-determined way, with prescribed scope notes. A completed standard format becomes a record.

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This volume is part of a series of how-to practical manuals aimed to help build the capacity of human rights organisations with regard to monitoring and documentation.

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