



New perspectives on NGO reporting to the UN Committee on Economic, Social and Cultural Rights: *Challenges and Opportunities*

A PWESCR INITIATIVE

By Rukmini Datta

NGO reporting to the United Nations

An 'NGO report' or 'civil society report'¹ is an independent report, prepared by civil society organisations, social networks, movements and academicians on the situation prevailing in a country with reference to a specific United Nations Treaty. A 'Treaty', 'Convention' or a 'Covenant' is an international legal instrument. It imposes binding legal obligations upon a State who is a party to that treaty. By ratifying a Treaty, a State Party/government begins the dynamic process of fulfilling its obligations to implement the rights enshrined in the Treaty and to report, periodically to the monitoring committee, on how they have been implemented. In addition to State Party's reports, monitoring committees may receive information on a country's human rights situation from other sources, including non-governmental organisations, UN agencies,

¹'NGO report' was earlier referred to as 'shadow report', 'alternate report' or 'parallel report'. Given the space civil society has claimed in treaty body monitoring processes, 'civil society report' or 'NGO report' is now best suited to describe this document.

How can civil society organisations engage with the human rights Treaty Body system of the United Nations?

- by lobbying with their government for the ratification of a Treaty
- by monitoring compliance of States with their reporting obligations
- by submitting written information to Treaty Body Committees
- by participating in Treaty Body country review sessions as observers and through oral submissions
- by following up on Treaty Bodies' Concluding Observations to ensure implementation.
- by submitting individual complaints to Treaty Bodies within a complaint procedure
- by providing information to generate confidential inquiries wherever applicable
- by providing information for early warning and urgent procedures

other inter-governmental organisations, academic institutions and the media. ‘NGO reports’ or ‘civil society organisations (CSO) reports’ are submitted to the monitoring committees of applicable Treaty Bodies. The committees comprise independent experts that monitor implementation of the core international human rights treaties.

In light of all the information available, the committees examine the report together with government representatives. Based on this dialogue, they publish their observations and recommendations as ‘Concluding Observations’.

Why NGO reporting?

There are many reasons for civil society organisations to submit a NGO report, the most compelling being that it is an exceptional opportunity to raise local concerns at an international forum from a

PWESCR had an understanding of how to pitch the report and of the language of the UN. Contributors were experts in their own areas. These two areas of expertise were combined to bring out the report.

– Member,
People’s Collective, India

Participation of non-governmental organisations and national human rights institutions

In order to ensure that the Committee (Committee on Economic, Social and Cultural Rights) is as well informed as possible, it provides opportunities for non-governmental organisations to submit relevant information to it. They may do this in writing at any time prior to the consideration of a given State party’s report. The Committee’s pre-session working group is also open to the submission of information in person or in writing from any non-governmental organisations, provided that it relates to matters on the agenda of the working group. In addition, the Committee sets aside part of the first afternoon at each of its sessions to enable representatives of non-governmental organisations to provide oral information.

Such information should: (a) focus specifically on the provisions of the International Covenant on Economic, Social and Cultural Rights; (b) be of direct relevance to matters under consideration by the Committee; (c) be reliable; (d) not be abusive. The relevant meeting is opened and provided with interpretation and press services, but is not covered by summary records.

The Committee has requested the secretariat to ensure that any written information formally submitted to it by individuals or non-governmental organisations in relation to the consideration of a specific State party report is made available as soon as possible to the representative of the State concerned. The Committee, therefore, assumes that if any of this information is referred to during the dialogue with the State party, the latter will already be aware of the information.

<http://www2.ohchr.org/english/bodies/cescr/workingmethods.htm> on 15 September 2011

people's perspective. Compiling an NGO report is an occasion for participants of the process to review and analyse trends in the achievement of human rights objectives in their country using the framework of governments' compliance with obligations of UN Covenants. Through an NGO report, civil society organisations can present findings based on their work to the UN, using the Treaty Body mechanism, and participate in their country's review process.

The contents of the report provide useful tools for advocacy work by civil society organisations. The Concluding Observations contain distinct possibilities of utilisation for advancing the cause of struggles at the grassroots. An engaged civil society can send out a message to the government that it is being watched and monitored which has the possibility of creating a conducive environment for rights-based dialogues to take place. In the long run, such engagement strengthens democratic processes giving a voice to people.

Civil society organisations have not been utilising international treaties to seek accountability from the government, often times because they are not aware of the possibilities such mechanisms offer². Even when they are aware, they may lack the wherewithal to put together a report and to present it to Committees when they meet in Geneva. Engaging with the UN can be overwhelming, especially for grassroots organisations and women's groups from countries in the global South.

Economic, Social and Cultural Rights

Human rights cover a wide range of aspects considered essential to live with dignity and security. All rights – civil, political, economic, social and cultural – are universal, inherent, indivisible, inter-dependent, and interrelated. People who are denied civil and political rights have no means of protecting the economic, social, and cultural rights that guarantee them their basic needs. Similarly, civil and political rights are meaningless if an individual must first be concerned with obtaining adequate food, shelter, and health care i.e. basic survival needs. Violations

Rights enshrined in the International Covenant on Economic, Social and Cultural Rights

The Covenant aims to ensure the protection of economic, social and cultural rights including: the right to self-determination of all people; the right to non-discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; the equal right of men and women to enjoy the rights in the ICESCR; the right to work; the right to form and join trade unions; the right to social security; the right to protection and assistance to the family; the right to an adequate standard of living including right to food, water, sanitation and housing; the right to health; the right to education; and the right to cultural freedom.

²Women's organizations have engaged with CEDAW, however their participation with other treaties is limited.

Many “shadow” report processes depend solely on government data. Divided Destinies* used data from all sources. It was evidence-based and conceptually very strong.

– Member,
People’s Collective, India

*NGO report of India

of these rights result in increased income disparity, economic exploitation and social exclusion.

Economic, social and cultural rights rest on the belief that economic and social deprivation should no longer be considered the result of natural conditions ordained by fate. They are premised on the ‘capability approach’ to analysing poverty. As the economist, Amartya Sen, argues, poverty needs to be seen as capability failure that must lead to demands for appropriate social arrangements through placing obligations on States.

In the United Nations human rights system, the **International Covenant on Economic, Social and Cultural Rights** (ICESCR) is the main treaty that addresses people’s economic, social and cultural rights³. The Committee on Economic, Social and Cultural Rights (CESCR) has monitored the implementation of the Covenant since 1985. It was established under ECOSOC Resolution 1985/17 of 28 May 1985 to carry out the monitoring functions assigned to the

United Nations Economic and Social Council (ECOSOC) in Part IV of the Covenant.

The Committee comprises 18 members⁴. They have recognised competence in the field of human rights. Members are independent and serve in their personal capacity for a four-year term. The Committee selects its chairperson, three vice-chairpersons and a rapporteur.

Women’s Economic, Social and Cultural Rights

In the current political climate, governments, international financial institutions and corporations have adopted, in most cases, a gender-neutral version of equality that treats economic policy as unrelated to the advancement of women’s rights. Women constitute 70 per cent of the world’s poor, two-thirds of the world’s illiterate⁵ and are continually denied access to basic healthcare, housing, education, work and social security. Moreover, they suffer from the burdens imposed by gender-based hierarchies and subordination that restrict them from enjoying their human rights.

However, women’s oppression and the dominance of patriarchal structures, whether within the family or in the community, is unceasing largely because of their lack of access to economic and social

³ESCR to certain extent are also addressed in CEDAW, CERD, CRC, ICPRMW, and ICRPD.

⁴<http://www.ohchr.org/Documents/Publications/FactSheet16rev.1en.pdf> on 15 September 2011

⁵http://www.ilo.org/global/about-the-ilo/press-and-media-centre/news/WCMS_008066/lang--en/index.htm on 9 Jan 2012

resources. Over the years, the women’s human rights effort focusing on violence, sexual and reproductive rights has been isolated from the discourse on poverty, housing, unemployment, education, water, food security, trade and other related economic, social and cultural issues.

Feminisation of poverty, with the disappearance of traditional forms of livelihood, no access or lack of access to resources (including natural resources), discrimination in labour markets, increase in informal ‘unsafe’ work, time burden and desperation to just survive are all on the rise, making women more and more vulnerable and hence more susceptible to various forms of violence too. In the face of these constraints, feminist ideology through women’s leadership in activism and scholarship is gaining momentum in various struggles around women’s rights globally.

Amartya Sen argues that economic poverty and deprivation should be seen in relation to their role in curtailing the freedom of a person to lead a life that s/he values. Enjoyment of economic, social and cultural rights enhances the freedom of individuals by increasing their capabilities and their quality of life. Such a capability approach can be a means of assessing the impact of discrimination based on factors like race, class, caste and gender by denying employment, for instance⁶.

However, the need remains to develop a much stronger and better-integrated approach to gender equality in the field of economic, social and cultural rights. There is a need to work towards bridging the growing gap between rhetoric and reality, focussing on women’s poverty, implementation of human rights, exploration of alternatives to legal strategies and research of best practices globally in order to develop new models of intervention. Women’s rights needs to be looked at in conjunction with diverse issues of food, livelihoods, social security, water, sanitation, housing, work, health, safety and security to develop the leadership of women in using a human rights framework to address issues of poverty and to promote a life with dignity. Apart from policy, the bulk of civil society work on economic, social and cultural rights has also paid little attention to women’s experience on the ground. Women, if included, are limited to “vulnerable groups” or to specific thematic programmes. A focus on women’s rights without a complete understanding

‘The process of writing *Divided Destinies** was different from that of writing other “shadow” reports because the output had to be very precise and had to be brought out in a very short period of time.

– Member,
People’s Collective, India

*NGO report of India

⁶<http://www1.umn.edu/humanrts/edumat/IHRIP/circle/modules/module1.htm> on 15 September 2011

PWESCR's value-addition

- An international, women-led, organisation based in the Global South
- The ability to link the voice of the most marginalised women and their realities from the ground to the highest level of policy-making, including the United Nations
- Economic analysis to women's issues, going beyond the social and cultural perspective that has been the stronghold of global women's movements
- Focus specifically on the International Covenant on Economic, Social and Cultural Rights (ICESCR) and not just on The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) that has, in general, been the focus of women's human rights

economic, social and cultural rights (ESCR) at the global level, PWESCR has built its expertise in many areas, including providing hands-on support to NGOs wanting to present reports to, and engage with, the UN Committee on ESCR. It has anchored the *People's Collective for Economic, Social and Cultural Rights* in India for a highly acclaimed NGO reporting process (2008), and facilitated the reporting process in Afghanistan (2010), Sri Lanka (2010), Moldova (2011), Turkey (2011), and Cameroon (2011).

Unique to PWESCR's expertise is its ability to bring a **systematic gender approach** into ESCR analysis through civil society participation linking international human rights obligations with local struggles. PWESCR has been able to enhance

of the social construction of gender will always be limited.

Facilitation by PWESCR

PWESCR (*Programme on Women's Economic, Social and Cultural Rights*) is an international initiative that promotes women's human rights, especially in the context of economic, social and cultural rights by bringing a gender framework to policy, law and practice at local, national, regional and international levels through ever-evolving strategies and activities in both conceptual and practical realms. From its base in India (New Delhi) and The Netherlands (The Hague), PWESCR works to promote the human rights of women, addressing women's poverty, health standards, and the right to food, education, water and sanitation, work and social security.

Drawing from its in-depth understanding of women's

“Priti and PWESCR are committed to taking the UN process to the grassroots and not restrict it to elite discussions as it has been till now. Their involvement is very much appreciated by the Collective in Sri Lanka. This has been a big achievement for us.”

– Member,
People's Collective, Sri Lanka

‘It was extremely helpful to receive first-hand information about fulfilment and non-fulfilment of economic, social and cultural rights for different vulnerable groups.’

– Maria Virginia Bras Gomes
Member,
UN Committee on ESCR

the participation of women’s groups in CESCER reporting, bringing in women’s voices from the most marginalised groups to the highest level of policy making. It has attempted to correct the anomaly of lack of participation of those who are “doers” at the community level, in the human rights discourse at the UN. PWESCR’s aim is to break the elite perception of the UN system, making it accessible and relevant to women from socially and economically marginalised communities. By increasing participation of women from the global South in international human rights accountability processes, PWESCR ensures local realities and Southern conceptualisation inform human rights standard setting.

Drawing from its experiences, PWESCR uses its expertise to facilitate civil society organisations, especially in the global South, to go through the process of reporting to the UN treaty

bodies – forming a collective, writing the report and presenting it, engaging with the Committee and following up on Concluding Observations.

NGO report process

In PWESCR’s experience, writing a NGO report is not only about gathering and presenting information; it involves a number of well-orchestrated activities before the consideration of the State party’s report, *during the dialogue* with the Committee and in the *follow-up* on the Concluding Observations. They include the following:

- Forming a collective of concerned organisations
- Demystifying the UN and Treaty Body process and identifying possible entry points and benefits
- Gaining access to governments’ reports where they exist or lobbying for them where they have not been drafted yet

PWESCR assists groups for CESCER review in following ways:

- Formation of large diverse collectives at country level to monitor ESCR.
- Provide technical support to develop effective NGO report for your country review before CESCER.
- Build capacity of civil society groups, especially of women leaders to participate in CESCER country review process.
- Lead civil society delegation to Geneva for the actual review.
- Implementation of Concluding Observations.

- Allocating responsibility for writing chapters of the report based on members' thematic areas of engagement and expertise
- Gathering and providing well-grounded evidence
- Organising the NGO report to include key issues, credible evidence on status of implementation of rights, questions for the CESC members, and suggested recommendations
- Editing down the report so that it is clear and easy for review committees to draw from it, without losing essence and information
- Facilitating civil society organisations' participation in country review processes in Geneva and interaction and advocacy with CESC members on days of the review
- Facilitating follow-up strategies for systematic implementation of Concluding Observations

The long-term envisaged outcome from the process is the emergence of country-specific, collectives to monitor ESCR.

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