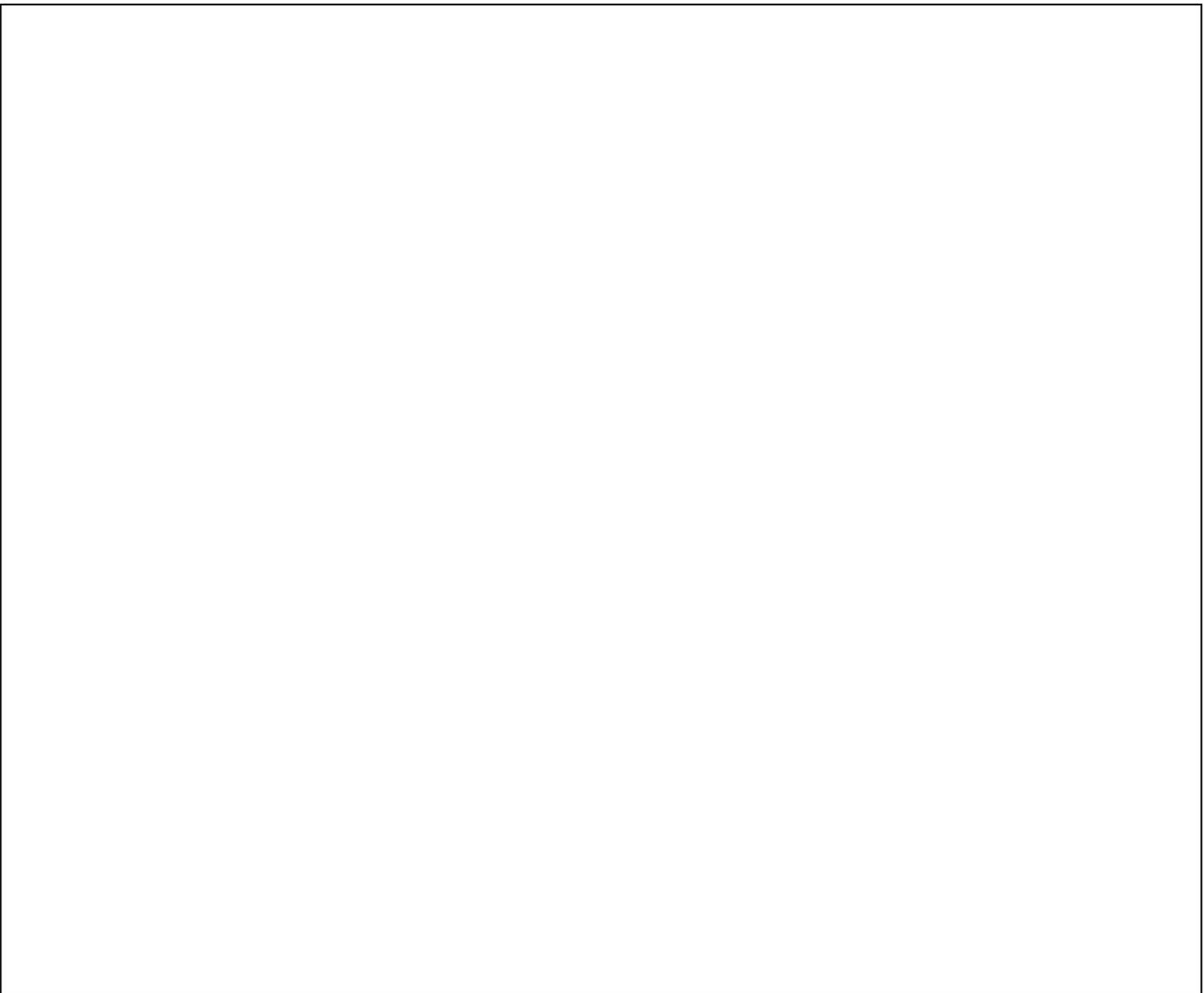


***Facing the 21st Century:
Challenges and Strategies for the Latin American
Human Rights Community***

**A RAPPORTEUR'S REPORT
Based on a July 1999 Conference Organized by**

**The Washington Office on Latin America
and the
*Instituto de Defensa Legal***



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November 1999

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By Alicia Yamin

November 1999

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Glossary of Acronyms of Participating Organizations

AMDH (Mexico)	Academia Mexicana de Derechos Humanos
APRODEH (Peru)	Asociación Pro Derechos Humanos
CALDH (Guatemala)	Centro para Acción Legal en Derechos Humanos
CCJ (Colombia)	Comisión Colombiana de Juristas
CDM (Honduras)	Centro de Derechos de la Mujer
CBDHDD (Bolivia)	Capítulo Boliviano de Derechos Humanos y Democracia
CEAPAZ (Peru)	Centro de Estudios y Acción Para la Paz
CEAS (Peru)	Comisión Episcopal de Acción Social
CEDAL (Peru)	Centro de Asesoría Laboral del Peru
CEDHU (Ecuador)	Comisión Ecuménica de Derechos Humanos
CEDLA (Bolivia)	Centro de Estudios para el Desarrollo Laboral y Agrario
CEJIL (Chile/USA)	Center for Justice in International Law
CELS (Argentina)	Centro de Estudios Legales y Sociales
CEPES (El Salvador)	Centro de Estudios Penales
CESR (Ecuador)	Centro de Derechos Económicos y Sociales
CLADEM (Argentina/Peru)	Comité Latinoamericano de los Derechos de la Mujer
CMDPDH (Mexico)	Comisión Mexicana de Defensa y Promoción de los Derechos Humanos
CNDDHH(Peru)	Coordinadora Nacional de Derechos Humanos
CODEH-Ica (Peru)	Comité de Derechos Humanos de Ica
COMISEDH (Peru)	Comisión de Derechos Humanos
FEDEPAZ (Peru)	Fundación Ecuménica Para el Desarrollo y la Paz
FESPAD (El Salvador)	Fundación de Estudios para la Aplicación del Derecho
GAJOP (Brazil)	Gabinete de Asesoría Jurídica a Organizaciones Populares
GIRE (Mexico)	Grupo de Información sobre la Reproducción Elegida
IDHUCA (El Salvador)	Instituto de Derechos Humanos Universidad Centroamericana "José Simeón Cañas"
IDL (Peru)	Instituto de Defensa Legal
IIDH (Costa Rica)	Instituto Interamericano de Derechos Humanos
ILANUD (Brazil)	Instituto Latino Americano das Nações para a Prevenção do Delito e Tratamento do Delinquente
ILSA (Colombia)	Instituto Latinoamericano de Servicios Legales Alternativos
INESC (Brazil)	Instituto de Estudios Socio-Económicos
IPEDEHP (Peru)	Instituto Peruano de Educación en Derechos Humanos y la Paz
MNDDHH (Brazil)	Movimiento Nacional de Derechos Humanos

PRODH

Centro de Derechos Humanos Miguel Agustín Pro Juárez

PROVEA (Venezuela)

Programa Venezolano de Educación- Acción en Derechos Humanos

RFK Center for Human Rights
(USA)

Robert F. Kennedy Center for Human Rights

WOLA (USA)

Washington Office on Latin America

Rapporteur's Note

The meeting convened by the Washington Office on Latin America (WOLA) and Peru's *Instituto de Defensa Legal* (IDL), "Facing the 21st Century: Challenges and Strategies for the Latin American Human Rights Community," was by no means a typical human rights conference. As a result, this is not the typical rapporteur's report. Therefore, a note about the contents and structure of the report seems in order. The report is divided into three sections: 1) Initial Ideas; 2) Building Advocacy Strategies (including the four thematic workshops – Judicial Reform Efforts and Access to Justice; Democratic Policing for Citizen Security; Economic, Social and Cultural Rights; and Women's Rights); and 3) Emerging Reflections. The fact that there is no introduction or conclusion – the traditional "beginning" and "end" – is not a stylistic fluke, but rather a conscious choice. As Carlos Basombrío (IDL) noted, this conference constituted one step in a much larger and longer process of change and introspection that the Latin American human rights community is undergoing.

The initial ideas that led IDL and WOLA to jointly propose this conference and that guided its organization, together with the opening panel discussion, are not introductory in the usual sense. Indeed, they are the result of profound analysis of the swiftly shifting currents in the global context and the challenges facing the human rights community – analysis based on the considerable accumulated experience of the groups represented on the opening panel. Similarly, it would be misleading to call the thoughts that emerged from the conference "conclusions." Rather, they are largely reflections on the changing identity of the human rights movement and on the new challenges that the movement faces. These reflections, which will guide the work of the movement in the period ahead, beckon for sustained discussion and debate, within and between organizations, in future gatherings to further the conversations started in Lima.

In terms of the content and format of the report, I have attempted to highlight some of the themes and motifs that came up repeatedly, with a focus on specific challenges and advocacy strategies. Notwithstanding the inevitable limitations of reducing rich discussions to bullet points, I have chosen to include summaries of various challenges, strategies and important lessons learned in boxes throughout the text in the hope that these will prove useful to those readers who were not present at the conference. With respect to those who were present, as a rule, plenary panelists and presenters in each workshop are identified by name while the contributions of the many other participants are synthesized without individual attribution.

In weaving together the strands of conversation and debate I have anchored the report in the presentations that structured the discussions in each session. As a result, some sessions may appear to be heavily "Peruvian," "Brazilian" or "Ecuadorian," depending on the nationality of the presenter, but I have made an effort to draw out lessons from the case studies that can be usefully generalized and applied to other contexts and countries. Also, while the structure of the report is uniform, I have attempted to give the reader a sense of the different dynamics in each of the four workshop sessions.

Just as Borges teaches us that all reading is in a sense also writing, the listening and synthesizing a rapporteur undertakes is also a very subjective enterprise. In the end, I am sure to have emphasized some points more than others would have or omitted other points that some view as crucial. My hope is that the report conveys a coherent, albeit impressionistic, interpretation of the major themes of the conference.

Finally, it may not be possible in a report of this nature to fully capture the atmosphere of the conference, but I would be remiss not to mention the enormous enthusiasm that participants showed both for engaging with the substantive topics of discussion and for the new and welcome experience of meeting as a collective Latin American human rights community.

Alicia Ely Yamin
Lima, Perú
October 1999

PART I: INITIAL IDEAS

(A) Context and Proposal for Conference

The transitions to democracy throughout Latin America over the past decade provide many grounds for optimism about the region's future. There are, however, significant new challenges that threaten to undermine its relatively fragile democracies. Obstacles to democratic consolidation are growing, calling into question not only the permanence of democratic transition but also whether democratic governments are capable of improving the lives of citizens. While state-sponsored human rights abuses have dramatically declined in most countries, they are on the increase in Colombia and Mexico, and in most of the region continued military impunity and weak institutional guarantees of fundamental civil, political and individual rights call into question the sustainability of progress.

In countries with serious ongoing human rights violations, the patterns of responsibility have become diversified. Whereas in the 1970s and 1980s state agents were responsible for most human rights violations, in the 1990s the agents of abuse are more numerous. For example, in Colombia, paramilitary groups allied with local military forces are responsible for over 80 percent of political killings. Drug traffickers have provided the funding for Colombia's paramilitary groups to become the most potent armed force in the country. In addition, local human rights groups have faced the challenge of documenting abuses by non-state actors, such as the *Sendero Luminoso* in Peru and the Revolutionary Armed Forces of Colombia (FARC) in Colombia. Today, human rights groups also face an alarming rise in violence that blurs the lines between political and criminal acts such as "social cleansing" killings, drug-related assassinations where a clear nexus exists between traffickers and local police agents, and criminal and drug-related gang wars.

While economic growth has resumed after the "lost decade" of the 1980s, it has yet to generate increased employment and well being for the majority of the population in most countries. High unemployment, massive poverty, and growing inequality are contributing to unprecedented levels of crime and a corresponding rise in fear for personal safety. At the same time, common and organized crime, drug trafficking and corruption challenge the capacity of weak democracies to provide basic security and strengthen support for those who call for order by whatever means necessary.

The status quo is unsustainable. Democracy must make a difference in people's lives if it is to maintain their allegiance. Government institutions must be efficient, transparent, and responsive to the needs of citizens. Justice systems must defend rights, not promote impunity; militaries must be effectively subordinate to civilian rule; police forces must be defenders of – rather than threats to – person and property. Civil society actors must have the capacity to advance proposals that address the key issues of rights,

security and unmet social needs in the region, and to hold government institutions accountable for their performance.

Latin American human rights organizations – founded and developed to investigate, document, and denounce human rights abuses – have struggled to adapt to this changing panorama. Many confront the dual challenge of continuing the traditional work of denouncing abuses, while also building their capacity to develop policy proposals and engage with governments and international institutions to advocate for incorporating human rights guarantees and protections into institution-building and reform processes. This challenge is often magnified by continuing hostility from many governments and officials in the institutions responsible for providing guarantees of basic rights. In countries such as Argentina, these officials may have served in key posts during military regimes. Yet, while democratic governments have not provided a human rights panacea, they have created a new political space and channels for dialogue on human rights concerns.

In countries where state-sponsored violence has ceased or significantly declined, traditional human rights groups have taken a number of approaches to the changing context of their work, resulting in a more heterodox or diversified human rights community. Some groups have maintained a narrow agenda, focusing on issues of reconciliation and closure through truth commissions or other efforts at documenting past human rights violations. Others have focused on strengthening international or regional human rights instruments. Still others are engaged in the institutional reform efforts described above, or have turned their attention to the “second generation” rights – economic, social and cultural rights. The rights of women, children and indigenous groups are among the many new issues being taken up by the Latin American human rights community.

Another urgent challenge for human rights organizations is maintaining sufficient levels of external support as Latin America fades from international attention. Many international funding organizations have cut back on assistance to Latin American organizations. On the other hand, new sources of funding may be available to some via the U.S. Agency for International Development (USAID) and the multilateral development banks (MDBs) – such as the Inter-American Development Bank – that increasingly look to non-governmental sectors as important actors in reform efforts. While funding from the United States and MDBs may be tempting, it may also be fraught with pitfalls for non-governmental organizations (NGOs), particularly at a time when they are struggling with new challenges and seeking to define new mandates and strategies.

The changing Latin American context for human rights work has offered new opportunities and challenges for the human rights community. The shifting agenda has provided an important opportunity for growth, for moving from a focus on *denuncias*, or denunciations, to one of *propuestas*, or proposals, and for strengthening ties with different sectors of civil society. This was the basis upon which the Washington Office on Latin America (WOLA) and the *Instituto de Defensa Legal* (IDL) convened the

conference, “Facing the 21st Century: Challenges and Strategies for the Latin American Human Rights Community.”

As the vanguard of the Latin American human rights movement moves in new directions, the need for space for common reflection and strategy building becomes even more important. Yet prior to this conference no single event had provided the opportunity for internal reflection among the hemisphere’s leading human rights experts. The conference, which took place on July 23 and 24, 1999, in Lima, Peru, brought together over eighty human rights advocates from across the region. It provided the space for analysis of four critical new issues confronting the community: 1) judicial reform efforts and access to justice; 2) democratic policing for citizen security; 3) economic, social and cultural rights; and 4) the integration of women’s rights into the human rights agenda. Most importantly, the conference permitted discussion of public education and advocacy strategies for shaping policy debates on those issues.

The four topics for thematic workshops were chosen in consultation with a broad cross-section of actors in the field. A session on Judicial Reform Efforts and Access to Justice reflected the fact that judicial reform efforts are underway in virtually every country in Latin America. In country after country, the human rights community faces the challenge of promoting the incorporation of protections for human, civil and political rights, improved administration and expanded access to justice in these reform processes. This session addressed a range of issues, including: reforms to criminal procedures systems and criminal penal codes; the promotion of transparency in prosecution and in issuing decisions; improved professional capacity of judges and prosecutors, and revamped methods of selection and review of judges to ensure political impartiality; the creation of watchdog institutions, such as offices of inspectors general; and the role of the human rights ombudsman.

The session on Democratic Policing for Citizen Security responded to a growing recognition among human rights groups throughout the hemisphere that, in the face of escalating crime rates, the issue of citizen security must be incorporated into the human rights agenda. In addition to improved judicial systems, police reform efforts have become a fundamental component of both governmental and NGO efforts to address the problem of guaranteeing citizens’ basic security. A range of mechanisms have been proposed in different Latin American countries to ensure accountability and transparency, such as oversight by the parliament and the judiciary, civilian police review boards, human rights ombudsman’s offices, internal reporting requirements and inspector general’s offices. This session also explored police-community relations and efforts to develop more democratic models of policing in which the police are required to truly “serve and protect” the community.

Economic, Social and Cultural Rights, the topic of the third session, is one of the fastest growing areas of NGO work as levels of political violence have waned in the region, but historic patterns of poverty, inequality and exclusion have worsened. A variety of approaches have been taken in this area of work. Some have tackled the issue from a legal point of view, basing their interpretation of these collective rights on

international human rights covenants and confronting the complex questions of monitoring and enforcement. Others have allied themselves with social movements – such as peasant or indigenous groups – to influence policies affecting such rights as access to land or to seek participation in decision-making around economic policy. This session covered the particular obstacles faced by human rights groups in undertaking advocacy for social and economic rights, as well as the potential rewards for the human rights movement in expanding its work.

Finally, the workshop on Women's Rights was intended to provide human rights organizations with a mechanism for the exchange of ideas and strategies on effectively advocating for women's rights. Throughout Latin America, women suffer from higher levels of poverty, illiteracy and unemployment, and from particular forms of violence and discrimination – all of which generate and reflect gender inequality. Although improving the status of women in society is a key issue for the Latin American human rights movement, human rights organizations have yet to fully develop their own expertise and programmatic focus on women's rights issues. Both international human rights covenants and treaties and local laws have failed to sufficiently address these issues. This session provided the human rights community with the opportunity for greater coordination and learning from the Latin American women's movement.

In each session, balance was sought in terms of the countries and experiences represented. For example, in the session on women's rights, the primary participants were from the human rights community; however, several representatives of women's organizations who were able to discuss advocacy efforts by the women's movement more broadly were also included. As it is a very new area of work for human rights groups, the session on citizen security was enriched by the participation of academics who had undertaken specific studies on democratic policing initiatives in various countries in Latin America. Most conference participants, however, were associated with traditional human rights NGOs from Latin America or dedicated to work on Latin America.

(B) Opening Thoughts –

A. Between Past and Future: Tensions, Paradoxes, and Challenges

The opening plenary provided a time for discussing the opportunities and challenges that the Latin American human rights movement faces as the 21st century approaches. While it is true that transitions to elected governments in South America and peace processes in Central America have brought significant advances for human rights and the consolidation of democracy throughout the hemisphere, panelists noted that the benefits of those transitions to democracy have gone unseen by the majority of the citizens in those regions. Panelists agreed that the human rights movement has come a long way since its founding and that the questions raised here about assuming new agendas and arenas of advocacy are a testament to the many accomplishments of the movement. Yet there was also consensus about both the unfinished agenda of the past and the urgency of confronting new challenges in the future. Panelists and participants alike were markedly enthusiastic about the conference and hopeful that it would generate ideas about ways to retain the movement's identity and legitimacy while expanding into new domains using new strategies.

Ernesto de la Jara (IDL), who spoke on the opening panel of the conference, set out many of the themes that were discussed by the plenary panelists. De la Jara enumerated four concerns, or balancing acts, faced by the human rights movement today. First, he spoke of balancing past and future, of benefiting from the lessons of years of accumulated experience, while also confronting the need to change given transformations in national and international contexts. Second, he emphasized the need to define the parameters of what human rights are and, consequently, what a "human rights perspective" is, noting that this is particularly relevant with respect to economic and social rights. Third, he argued for the need to demonstrate that the ethical and moral framework of human rights could be compatible with effectively resolving real-world social problems, such as dramatically rising crime rates. Finally, de la Jara spoke of the need to understand and realistically define the capacities of human rights NGOs in this new period.

With respect to the first balancing act between past and future, the challenges of the new period require the human rights community to reexamine both its focus and its culture of struggle. Martín Abregú (CELS) commented that Latin American human rights organizations were founded in a particular historic juncture to investigate, document, and denounce human rights abuses by police and security agents under authoritarian regimes. He pointed out that the legitimacy of the movement is intrinsically connected to its moral authority and to its origins fighting for rights under dictatorships. In that context, the reason for the existence of human rights groups was obvious: to stop the atrocities of the dictatorships. Abregú argued that the fact of continuing grave human rights problems in Latin America does not, by itself, ensure that the movement remains relevant and legitimate in the eyes of the public.

Abregú commented that the more expansive way the struggle for human rights is understood in this new context – to include ending discrimination against women and economic rights, for example – is work that other social sectors were engaged in before the dictatorships. Thus, the challenge now is for the human rights movement to work with these other sectors, to further insert human rights concepts and aims into the labor movement, into political parties, into the discourse of intellectuals and churches. Yet, taking up some of de la Jara's points, Abregú reiterated that if human rights are to become a key reference point for social policy, the particular role of human rights NGOs must be carefully considered. According to Abregú, the "value-added" of the human rights movement lies in its ability to "turn on a stop light when human dignity is violated, [to be] a thermometer that indicates when the temperature goes below freezing." In moving into these new areas, the human rights movement must be careful to maintain the "value-added" that it has inherited from its founders.

George Vickers (WOLA) remarked that the fight for human rights in this new period – a period characterized by semi- or partial democracy limited primarily to the electoral arena – requires a much more sustained and profound effort to consolidate the key democratic institutions essential for the protection of those rights. It also requires recognizing that democracy and human rights are not philosophically identical. To the extent that democracy implies majority rule, respect for human rights implies limits on that majority. Human rights NGOs must ensure that democratic institutions guarantee that the individual human rights of every citizen are put first in relation to the democratic rights of the majority. Vickers noted that this will not always be a popular task.

All of the panelists concurred that human rights NGOs now confront the dual challenges of continuing traditional denunciatory work under elected governments, while also proactively proposing alternatives and engaging with governments to advocate the incorporation of human rights concerns into public policy. Vickers argued: "It is no longer enough to demand a seat at the table of power. We must have something to say when we are given that seat. This cultural change will require us to engage with state institutions and to develop levels of technical expertise that were irrelevant in the earlier period." Such tension is particularly acute in public order debates. Abregú and others noted the potential contradictions inherent in continuing the traditional work of human rights groups in defending the rights of criminal defendants to have due process guarantees, while assuming the new challenge of advocating for the rights of citizens to increased security.

The panel also touched upon the enormous threats to human rights posed by the increasing poverty and inequality plaguing Latin America. A number of people noted that the return to civilian rule in many countries has not led to improved standards of living; on the contrary, the experience for tens of millions of Latin Americans over the last fifteen years is one of deteriorating socio-economic conditions. Moreover, responsibility for this situation is not a clear-cut matter of the state committing abuses. Some panelists noted that human rights groups are now beginning to focus on multinational corporations as agents of abuse in an increasingly globalized world. The World Bank and International Monetary Fund have forced many countries in the region

to accept structural adjustment packages, which in many cases have led to increased poverty among certain sectors of the population. Abregú argued that it is up to the human rights movement to construct mechanisms for remedying these violations of economic and social rights. Vickers suggested that in light of the problems caused by globalization of the world economy, international civil society will have to develop new and stronger global alliances and coalitions to propose alternatives.

Vickers noted that poverty and inequality are not only topics for discussion in the context of economic and social rights, but they directly undermine the consolidation of individual and civil rights within a framework of democratic order. Susana Villarán (IDL) underscored the converse: In societies where periodic elections have not solved people's daily struggles to eat and work, it becomes all the more important for NGOs to develop creative approaches to incorporate economic rights into the political equation.

Panelists agreed that social violence and increasing crime are concrete consequences of economic deterioration that directly affect the ability to build a culture of human rights. Villarán stressed the importance of developing strategies that address common citizens' feelings of insecurity from a human rights perspective. She asked, "How do we change an inquisitorial penal culture that makes poverty a crime?" Vickers wondered how long people will value democracy under conditions of such insecurity. He stated, "the example of Fujimori in Peru and the appeal of General Oviedo in Paraguay and Chávez in Venezuela suggests that the window for democracy may be beginning to close."

Gustavo Gallón (CCJ) spoke from the perspective of an NGO working in Colombia, the country that most vividly illustrates that the region's march toward democracy is far from assured. Gallón argued that there are two central paradoxes confronting the human rights movement: first, the growth and acceptance of human rights concepts alongside the resistance of certain social sectors to having human rights applied in practice; and, second, support for and use of a human rights discourse at the international level alongside the dangers that can imply on the ground. With respect to the first paradox, Gallón pointed to resistance both from what he called "big countries" (such as the United States and China) and "little countries" (such as Peru) to submit to international scrutiny. With respect to the second paradox, Gallón cited the example of Kosovo to illustrate the dangers of certain governments using human rights arguments to justify aggression, and argued that there is a risk of an "imperialistic law of human rights" replacing the international law of human rights.

From a slightly different perspective, Villarán also touched on the two paradoxes cited by Gallón as among the tensions that she perceives for the new era of human rights. In talking about the tension between the old and the new, Villarán often emphasized the unfinished agenda from the past, noting that the violence in Colombia exemplifies the fact that Latin America's reality is not simply progressing through a series of linear stages toward a more peaceful and democratic future.

Both Villarán and Vickers noted that the persistence of impunity remains one of the most damaging legacies of the authoritarian period and continues to be a major obstacle to both the consolidation of democracy and the improvement of human rights. With few exceptions, those who tortured and killed, and those who gave the orders to do so, have not been brought to justice. In far too many places, they remain in positions of influence and power. While the restoration of civilian rule has brought efforts to recover the historical memory about what took place during the past three decades, knowledge of the truth has rarely brought justice for the victims. The memory of injustice remains part of the historical legacy of civil society's struggle against oppression. Even while recognizing and accepting the necessary compromises of the transition periods, Villarán and other panelists argued that human rights organizations maintain a special responsibility to continue to demand an accounting of past abuses and to continue to insist on both personal and institutional responsibility for the atrocities committed.

Vickers pointed out that the current effort to extradite former dictator Augusto Pinochet from Great Britain to Spain underscores the strengthening of international norms and mechanisms to bring to justice those who are responsible for crimes against humanity. It also offers new hope that even when the political realities of the transition from dictatorship to democracy force a trade-off between justice and peace in particular countries, those who tortured and murdered with impunity may yet be held accountable for their crimes.

In short, as de la Jara argued, "the human rights movement needs to find a way to go on doing the same thing without doing the same thing." Abregú noted that today Latin America has the "same police, the same ineffective courts, the same discrimination against women, the same poverty that we had before the dictatorships, but the difference is that it also has a human rights movement." Abregú stated the challenge as: "How to construct a human rights movement that transcends its founders on three levels: thematic, strategic, and structural." The rest of the conference took up these challenges through the thematic workshops, the intensive focus on building new advocacy strategies, and the very fact of meeting and exchanging ideas as a community.

Some of the Challenges Faced by the Latin American Human Rights Movement on the Eve of the 21st Century

1. **DEFINE** a distinctive role for human rights NGOs in this new context, while building alliances with other social sectors around the same issues.
2. **MAINTAIN** the radicalism of the founders and continue to expose and denounce abuses, while simultaneously engaging with the state on concrete reform proposals.
3. **FIND** effective means to address and redress the overwhelming poverty and increasing income inequality in the region from a human rights perspective.
4. **MAKE** human rights ethics and morals compatible with the real-world problems of today, such as citizen security in the face of rising crime.
5. **CONFRONT** ongoing impunity for past and present abuses.

PART II:

B. BUILDING ADVOCACY STRATEGIES

(A) Defining Advocacy Strategies

The new challenges facing the Latin American human rights community in the region call for the development of new strategies for advocacy. The second panel reviewed the most developed thinking on the methodological approaches to advocacy and explored how human rights groups are developing concrete advocacy plans in a range of new areas. Strategies incorporated into these plans include building constituencies, opening and taking advantage of political spaces, working in coalition with new sectors of civil society, public education and engaging in direct lobbying with governmental and multilateral agencies. Valerie Miller, a consultant for WOLA and IDL, identified arenas in which NGOs can and should plan to concentrate their advocacy efforts, as well as the power structures that they are already implicitly addressing and challenging through their work. Danuta Sacher (WOLA) then presented a concrete example of how these new advocacy strategies are being fostered in WOLA's advocacy training program in Central America.

Miller identified five arenas in which NGOs can and should plan to concentrate their advocacy efforts for maximum impact: 1) the political/policy arena, 2) the private sector, 3) civil society, 4) the political system and culture, and 5) the individual. Over the course of a campaign, different emphasis may be given to each of these arenas. Some initiatives, for example, may never be active in the private sector arena. However, research has shown that to be effective over the long-term, advocacy efforts need to pay attention not only to fostering change in the political/policy arena but also to strengthening civil society, political culture, and people's sense of citizenship and self-worth.

The **political/policy arena** is the most common advocacy arena. It includes working for changes in policies, programs, laws, regulations, etc., of state and governmental institutions, including international organizations composed by states, such as the United Nations (UN) and the World Bank. The second arena is the **private sector**. While this arena may be less familiar to NGOs, the various advocacy strategies used in this context can result in more responsible behavior by certain powerful actors such as multinational corporations or national economic elites. The third arena for action and impact involves fortifying **civil society**. Strengthening the power and voice of NGOs and popular organizations is critical to increasing their participation in decision-making and their ability to hold governments accountable so that policy gains in human rights and other areas of concern can be attained and sustained. A fourth arena of potential impact entails changes in the **political system and political culture** that help create an atmosphere in which political advocacy is not only possible, but can be effective and carried out without fear of violence or repression. Such changes include, for example, increased governmental respect for the right of the population to participate in decision-making, as well as increased transparency and accountability on the part of state institutions. The fifth and final arena for advocacy outlined by Miller involves changes at the **individual** level. These changes not only refer to improvements in physical living conditions such as better access to water or wages, but also changes within the person that are necessary for the development of a sense of citizenship and personal worth. Such changes occur when passive and paralyzing attitudes of self-blame and ignorance, so common to many powerless groups, are transformed into proactive attitudes and concrete capabilities that allow people to become active protagonists in the defense and advancement of their own rights.

Advocacy Arenas

- | | |
|----|------------------------------------|
| 1. | Political/Policy Arena |
| 2. | Private Sector |
| 3. | Civil Society |
| 4. | Political Culture and System |
| 5. | Individual Consciousness/Awareness |

In addition to setting out the distinct arenas for advocacy that are crucial for long-term success, Miller emphasized the importance of analyzing different manifestations and expressions of power, noting that human rights is about challenging and transforming the entrenched power structures that deprive human beings of their rights and dignity. Miller noted that many advocacy strategies focus on the political/policy arena where conflicts and structures of power are visible, but argued that there are also less visible forms of power that impede the advancement and exercise of human rights, especially by certain excluded sectors. To counter these expressions of power, complementary action strategies must be developed which impact other arenas, such as civil society, political culture and the individual.

Miller outlined **two broad categories of power** that imply distinct yet interrelated advocacy strategies. The first category includes formal structures of power such as the parliament, the presidency, the UN system and, in some cases, private sector corporations. Advocacy strategies related to this category of power include, for example, lobbying congress on certain legislation or litigating particular cases before the courts, where there is openly a conflict between a human rights group and a public institution. Human rights NGOs are all too familiar with the struggles to challenge an unconstitutional law or to free an innocent person who has been denied due process.

The second general category refers to **less visible expressions of power** which function in a variety of ways to make conflicts and structures of power invisible, removing them from public attention and action. These include processes of exclusion, delegitimation, information control, and socialization of powerlessness. For example, certain sectors of society, such as women and indigenous communities, have been for the most part traditionally excluded from important roles in public life. Their grievances or demands have not been considered legitimate public issues, greatly reducing the possibilities for redress. Domestic violence is one example of a grievance that has traditionally been excluded from public consideration and has only recently been forced onto the agenda of public debate by an organized women's community.

Another example is when less visible expressions of power are maintained through information control. State or corporate institutions, for example, may control or conceal information from the public regarding human rights abuses or the health or environmental risks associated with certain products. In this case, research, investigation and media approaches designed to uncover and disseminate concealed information are needed.

There are different levels of discrimination and exclusion based on gender, class, race, ethnicity, religion, age, and the like. But in general, according to Miller, organizational and educational strategies focused on constituency building and grassroots leadership are required. Establishing a long-term base of support by increasing the capability for action and mobilization of "base communities" and their leadership and building alliances across grassroots groups are essential. Such a power base is necessary for getting a place at the table and holding the government accountable so advances gained in the political/policy arena can be monitored and sustained.

This form of power also acts to conceal conflict through the formation of attitudes of self-blame. People internalize oppression and a sense of ignorance and then blame themselves for their situation as often happens with women suffering abuse. Even if they are aware of certain rights, they feel they do not apply to them. This contributes to legitimizing and making invisible the injustices and inequalities in society and subverting processes of change. Countering these manifestations of power requires educational strategies aimed at increasing individuals' analytical capacities, self-worth, and awareness of their rights.

These issues emerged in particular from the sessions on Women's Rights and on Economic, Social, and Cultural Rights.

Advocacy Approaches for Addressing Different Aspects of Power

1. INFLUENCING AND LOBBYING visible structures of power to resolve clear conflicts such as specific legislation or cases.
2. BUILDING, STRENGTHENING, AND MOBILIZING constituency groups, their leadership and alliances to gain visibility and legitimacy for their grievances and demands, participation in decision-making structures, and power to hold government accountable.
3. EDUCATING AND ACTIVATING public opinion.
4. INVESTIGATING AND DISSEMINATING concealed information such as human rights violations.
5. STRENGTHENING people's sense of self-worth, analytical capacities, awareness of rights and identity as citizens.

Miller stressed the interrelated dynamics of power and advocacy and the need to work in different arenas using a wide variety of strategies, as summarized in the preceding box. Without attention to these different approaches, advocacy campaigns will be unable to achieve or sustain long-term success.

Moving from the theoretical to the practical, Danuta Sacher presented the advocacy training program that WOLA began in Central America in 1996, just as the last of Central America's armed internal conflicts was ending in Guatemala. When the program was initiated, the region's countries were beginning the process of constructing more democratic forms of government, opening possibilities for new political and social dynamics and new relationships between the state and civil society. Based on the premise that greater citizen participation in the formulation and implementation of public policies is decisive for the consolidation of peace and to avoid the resurgence of armed conflict in Central America, the WOLA program seeks to increase the capacity of key organizations in civil society to influence the public debate and the policies and programs of national governments in Central America. The issues highlighted in the first phase of the program are public security, women's rights, indigenous rights, and issues relating to urban-rural development. Institutional capacity-building is principally done by training leaders of popular organizations, NGOs, and research centers in methodologies and techniques of basic and advanced advocacy.

WOLA defines advocacy as planned efforts by organized citizenry to influence policies and public programs by means of persuasion and pressure on governmental institutions (such as legislatures, the executive branch, ministries, or mayors) or before international financial organizations or other such institutions. Advocacy, in this view, is a fluid and multifaceted process which involves gaining access to and influencing people who have decision-making power in matters that are important either to a particular group or to the society in general.

The program's methodology uses eight essential steps: 1) identification and analysis of the problem; 2) development of a concrete proposal, including specific goals and objectives; 3) analysis of the decision-making arena; 4) creation of a power map, including identification of key actors, such as allies, opponents, and undecided actors; 5) self-analysis with respect to the advocacy capacity of the group; 6) design of strategies to achieve the proposed objectives; 7) creation of an activity plan; and 8) continuous evaluation. Sacher noted that the definition of the problem and proposal of a concrete solution remain difficult steps for NGOs to take and suggested that this might be due to the fear that by concentrating on concrete objectives, they may be betraying the concept of global social change. Sacher emphasized the importance for NGOs to reconcile the long-term vision of a just society and the concrete steps that permit short-term successes that can build toward societal change. She further noted that the detailed planning

process involved in advocacy and the self-analysis component are also new to many of the groups that have been activist-oriented in the past.

The WOLA program has conducted approximately 150 workshops with approximately 2,000 participants since its inception. Sacher cited several examples of successful advocacy campaigns in Central America that have used the WOLA methodology. For example, the *Coalición para la Acción Legal de la Mujer* (COAL) in Guatemala, a coalition of women's organizations, drafted a law to promote the rights and dignity of women in Guatemala which was passed by the legislature. In El Salvador, the *Foro Agrario* has developed a solid campaign to promote forgiving agrarian debt.

Sacher noted that the WOLA program focuses on strengthening the capacity of civil society organizations to participate in and help shape public debate, and to engage effectively with official actors on public policies and priorities. While the program sees this work as an essential part of constructing a truly democratic political system and political culture in Central America, it is conscious that they have yet to be built. This reflection underscores Miller's analysis of the need for strategies for action in several different arenas, including the underlying political culture.

WOLA's Eight Essential Steps of Advocacy

1. IDENTIFY and analyze the problem.
2. FORMULATE a concrete proposal, including specific goals and objectives.
3. ANALYZE the decision-making arena.
4. CREATE a power map, including key actors, such as allies, opponents, and undecided parties.
5. SELF-ANALYZE with respect to the advocacy capacity of the group.
6. DESIGN strategies to achieve the proposed objectives.
7. CREATE a detailed activity plan to carry out strategies.
8. EVALUATE and re-evaluate continuously.

The discussion following this panel emphasized that advocacy strategies called for alliances both within the human rights movement and between the human rights movement and other social actors. Moreover, in a point that was repeatedly made throughout the conference, participants suggested that strategies have to consider not only advocacy arenas or dimensions of power but three concrete levels of activity: local, national, and international.

The thematic workshops took up and then applied the general themes raised in the opening plenary and the concepts of advocacy laid out in the second panel. The intensive two-day workshops permitted participants to develop and consolidate new advocacy strategies in four key areas: the justice sector, democratic policing, women's rights, and economic, social, and cultural rights. In addition, the smaller workshop format allowed for strengthening regional networks and mechanisms for exchanging information and evaluations of successful advocacy experiences in these focus areas.

(B) Thematic Workshops

1. Judicial Reform Efforts and Access to Justice

Participants

Coletta Youngers, Ernesto de la Jara, Gustavo Gallón, Helen Mack, Frank La Rue, Nicolás Espejo, María Claudia Pulido, Margaret Popkin, Ivan Bazán, Oscar González, Alfredo Fuentes, Ronalth Ochaeta, Susana Villarán, Mariana Allende, Jaime Márquez, Wilfredo Ardito.

Organizations Represented

Washington Office on Latin America (USA), Instituto de Defensa Legal (Peru), Comisión Colombiana de Juristas (Colombia), Fundación Myrna Mack (Guatemala), Centro Para Acción Legal en Derechos Humanos (Guatemala), Center for Justice in International Law (Chile/USA), Robert F. Kennedy Center for Human Rights (USA), FEDEPAZ (Peru), Academia Mexicana de Derechos Humanos (Mexico), Corporación Excelencia en la Justicia (Colombia), Instituto Interamericano de Derechos Humanos (Costa Rica), CEPES/FESPAD (El Salvador), Coordinadora Nacional de Derechos Humanos (Peru).

Although judicial reform has been undertaken in almost every country in the region, these reforms have not always incorporated strengthened rights protections, improved administration, or expanded access to justice. Indeed, some reforms in codes of criminal procedure and in the allocation of powers to the public prosecutor's office have undermined the rule of law and guarantees for human rights. In addition to these issues, this session addressed the role of the human rights ombudsman and the media in campaigns to reform legislation, as well as the importance of continuing to find new ways to combat impunity.

Access to justice is perhaps the classic agenda of human rights NGOs, but in this new context it is taking on added dimensions. Participants agreed that denouncing abuses is no longer sufficient; proactive reform proposals are required to redress violations and to institutionalize reforms. Even though much of this work necessarily involves securing legal remedies or analyzing legislation, many participants stressed the need to work with other social sectors and to view access to justice not only in legal, but in political terms. That is, even this classic area of work for NGOs must involve strategies that go beyond the political arena – in the narrow sense – to strategies that build the voice of civil society and transform the political culture.

A question which repeatedly arose was: How can human rights groups maintain their traditional work of standing up for the rights of all criminal defendants to due process of law, while also be seen as seeking effective remedies to public order problems? Another element that was emphasized is the importance of having an organized social base, as well as consensus and coordination among human rights organizations (which it was conceded is not always possible). Finding financial and other support both domestically and internationally, together with systematically working to engage the media, were also topics of prolonged discussions in this session.

To provide structure to the discussion, Ernesto de la Jara (IDL) first outlined the experience of Peruvian NGOs in their campaign, "In the Name of the Innocents," and then Frank La Rue (CALDH) described some of the aspects of the current situation in Guatemala. The Peruvian campaign, "In the Name of the Innocents," provided an in-depth case study that was the basis for much of the strategy discussion that followed. Therefore much of this section of the report is devoted to a description of the lessons learned from that campaign.

The context for the campaign, "In the Name of the Innocents," was established after the *autogolpe*, or presidential coup, of April 5, 1992, when the first administration of President Fujimori adopted draconian anti-terrorist legislation to combat *Sendero Luminoso* and the Tupac Amaru Revolutionary Movement (MRTA). That legislation represented a significant setback for the rule of law in Peru and was characterized by the following elements: open and ambiguous definitions of crimes; almost limitless powers for the police and even the armed forces to detain people suspected of terrorism; "faceless" courts, in which the identity of judges was secret; creation of the crime of treason for aggravated terrorism and submission of such cases to military jurisdiction; radical restrictions to the right of self-defense; elimination of many constitutional guarantees; mandatory detention throughout judicial processes for terrorism; excessive sentences in general; stiff penalties for minors; legislation aimed at procuring confessions and exchanges of information without adequate safeguards for defendants' rights; and a harsh prison system, including isolation and restrictions on communication with the outside.

Soon after the passage of these laws, human rights groups began to receive complaints of innocent Peruvians caught up in this web of injustice. They were able to verify that there was a pattern of detention, trial and judgement that was generating systematic errors and injustices resulting in the imprisonment of hundreds, if not thousands, of innocent people. The campaign, "In the Name of the Innocents," was the response of the Peruvian human rights NGOs. Both the successes and lessons learned from this campaign are striking.

In terms of the successes, de la Jara described how fundamental normative and institutional changes were achieved. In terms of legal norms, the anti-terrorist legislation has been progressively modified, with essential changes enacted on various occasions. These include the elimination of certain restrictions on the rights of the defense, and the elimination of "faceless" civilian courts.

In terms of institutions, an Ad Hoc Commission composed of a representative of President Fujimori, the Human Rights Ombudsman, and the Minister of Justice was created to review cases. This Commission has a technical secretariat composed of lawyers, which reviews cases and presents them to the Ad Hoc Commission. The Commission then decides whether or not to recommend the cases for a pardon. President Fujimori decides in the final instance whether or not to offer clemency. Through this mechanism and the concern it generated within the court system itself, thousands of people have been freed, either by way of the Ad Hoc Commission or through the justice system. Other related achievements include enhanced legitimacy of both human rights organizations and the Human Rights Ombudsman's Office (*Defensoría del Pueblo*) in Peru, which has demonstrated itself to be a credible and independent institution.

While the successes themselves are in some ways particular to the Peruvian context, many of the critical elements in the design of the “In the Name of the Innocents” campaign can be usefully replicated in any number of human rights campaigns. For example, it was important to construct emblematic or paradigmatic cases to make the abstract issues concrete. This was an important complement to the comprehensive analysis and critique of the anti-terrorist legislation made by NGOs and disseminated broadly in Peru and internationally. Moreover, from the beginning it was critical to generate both national and international pressure on the government. Media attention to the paradigmatic cases played an absolutely critical role in the campaign's success. In addition to the media, a variety of other sectors, institutions, and individuals took up the campaign issues. For example, the Catholic Church, the Protestant Church, intellectuals and artists, as well as the Human Rights Ombudsman were all important players in the process. Diverse outreach and education strategies were used by human rights NGOs for these different sectors. Finally, the groups adopted concrete actions and evaluation mechanisms in the pursuit of their overall objectives, and did not stop with denouncing or criticizing the anti-terrorist legislation.

The multi-stage process through which the “In the Name of the Innocents” campaign developed can also be generalized to other human rights problems and strategies in different countries:

- 1. Recognizing the problem.** *Bringing to light the problem until it gets social and official recognition.* Between 1992 and 1994, the objective was to demonstrate that it was not a matter of one or two aberrational errors, which might be produced in any judicial system, but a significant number that were produced by systematic injustice that would keep increasing without effective measures being taken to stop them.
- 2. Generating public acceptance and sympathy.** *Once the systematic nature of the problem is shown, the public and relevant officials must be convinced that a resolution of the problem is needed and desired.* In the Peruvian case, the solution involved demonstrating that it was possible to distinguish

between innocent people and those who were guilty of terrorism, and that freeing innocent people would not lead to increased terrorism.

3. **Debating different proposals and approving one of them.** *Concrete normative, institutional and procedural proposals have to be set forth by NGOs and different social actors.* In Peru, the options were: the Supreme Court review of cases, amnesty, or presidential pardon. The pardon was the only option that was acceptable to the Fujimori administration, and to much of the public that was deeply affected by terrorism in Peru and would have balked at an outright amnesty.
4. **Implementing the proposal.** *The mechanism for solving the problem is put into place.* Once the pardon law was passed, the Ad Hoc Commission began to function. This mechanism, which initially had a six-month mandate, had been functioning for two and a half years at the time of the conference. NGOs played an important role in facilitating its work, defending it from critics and extending its term.

Perhaps the single most important structural aspect of the campaign, “In the Name of the Innocents,” was that the entire human rights movement in Peru acted in a coordinated and concerted manner. This was only possible due to the existence of the *Coordinadora Nacional de Derechos Humanos* (a coordinating body that serves as an umbrella for the approximately fifty human rights NGOs that currently operate in Peru). It also was important both internally (for coordination) and externally (for credibility) that human rights groups had been functioning in Peru for ten years and had built up a solid record of work.

bsolute condemnation of the acts of violence committed by Sendero Luminoso and the MRTA and the recognition of the need to find a system that would permit severe punishment for the guilty... The right of defense was supported for everyone but legal assistance was reserved only for innocent people... This obviously implied a pre-judgement on the part of human rights groups, beyond the sphere of formal juridical instances and the principle of the presumption of innocence. Given the characteristics of the subversives in Peru, it would have been impossible to achieve even a minimal legitimacy if innocents and guilty parties had been confused...that is to say if the defense of both had been taken up, including Senderistas and MRTA members. The option was clearly to take up the cases of innocent people....

Ernesto de la Jara

What de la Jara described as the campaign’s “flexibility and attention to the political realities of Peru” was also essential to success, but was controversial among some participants. For example, given the viciousness of the violence unleashed by *Sendero Luminoso*, it was absolutely essential to distinguish between the problem of the

innocent people and the issue of terrorism. In so doing, NGOs had to unequivocally separate themselves from the discourse of violence; there could be no vacillation about where NGOs stood with respect to the activities of the MRTA and *Sendero Luminoso*. This led NGOs to engage in a pre-screening of cases – which some might say meant playing judge and jury – in order to separate the cases of those they deemed “innocent” from the rest, who could have had some involvement in subversive activities. Another example of being flexible in the face of the political realities with which they were confronted was the acceptance of the pardon, even though this was totally inadequate and even unjust from a strictly legal point of view. First, the decision lay not in the hands of a judicial body, but with the president. Second, people were pardoned for crimes they had clearly not committed. Only much later was legislation enacted to erase the criminal records of those pardoned.

De la Jara was quick to note that: 1) elements of success – and failure – in such a campaign are often due to factors beyond the planning or control of the NGOs; and 2) despite the successes of the Peruvian campaign, there is a pending agenda. For example, de la Jara states that, “it almost goes without saying that a critical element in permitting this campaign was the significant reduction in violence stemming from the strategic defeat of *Sendero Luminoso* and the MRTA. The country stopped being paralyzed and terrified by the advance of armed insurrection, making it possible to correct errors through education, outreach and pressure from distinct sectors.”

With respect to the pending agenda, Peruvian NGOs estimate that approximately 200 innocent people remain in prison, and between 5,000 and 8,000 people, many of whom are innocent, are under indictment and potentially subject to detention and conviction. A number of changes are still pending in anti-terrorist legislation in order for it to conform to due process standards, as well as changes in prison conditions and sentencing guidelines. Other pending issues include the indemnification of victims and the identification and sanction of those responsible for arbitrary detentions, torture, and convictions without proof. Finally, there is a need to raise awareness about the connection between the innocent people in prison and the legislation that was enacted, and a generalized agreement of “never again” to prevent a repeat of what happened in this case. In this connection, de la Jara noted the paradox that public opinion in Peru supports the campaign for the innocents but, at the same time, supports the extension of anti-terrorism legislation to cover violent criminal activity.

SUMMARY OF LESSONS LEARNED FROM THE CAMPAIGN, “IN THE NAME OF THE INNOCENTS”

Challenges

1. MAINTAIN legitimacy and not be seen simply as the “defenders of criminals.”
2. EXPRESS the desire to proactively solve social problems.
3. INVOLVE different social sectors.

Strategies

1. CHOOSE paradigmatic cases to prevent victims’ plight.
2. ANALYZE AND CRITIQUE overall situation.
3. GENERATE domestic and international support.
 - A. Incorporate new and different sectors
 - B. Influence public opinion about the problem and the possibilities of solving it.
 - C. Seek key contacts and alliances within the government.
 - D. Construct media campaigns.
 - E. Form coalitions of organizations.
4. UTILIZE a combination of strategies (transcending the denunciation with proactive measures, such as legislative proposals).
5. EVALUATE the context (debate about possible mechanisms and strategies, flexibility, and a practical sense of negotiation).

In discussing the situation in Guatemala in more general terms, La Rue took up this question of raising awareness about what has happened in the past and promoting an attitude of “never again.” La Rue emphasized that concerted action with the public is necessary to improve the administration of justice. La Rue insisted that it was essential both to find a way to legitimate the human rights movement after the armed conflict and to expand on the concept of who defends human rights. In Guatemala, La Rue feels that human rights groups have not managed to convey the gravity of the current situation. He commented, “There is a feeling that human rights are not that important since the war is

The strategy [for improving access to justice] must include creating a social movement and favorable public opinion... which means that human rights groups will be getting involved in labor rights, and economic, social, and cultural rights... [For example,] with the peace process, the army has remained intact. The next supreme court in Guatemala will have justices who are linked to the military... Corruption and intimidation of judges prevent human rights violation cases from going forward. If the population does not assume this responsibility and apply social pressure, nothing will be achieved.

Frank La Rue

over. The public is concerned with crime and sees human rights groups as an obstacle to security.” La Rue further argued that understanding the improvement of mechanisms for access to justice as a technical-legal challenge is inadequate; it must be understood as a political challenge for real change to take place.

La Rue also discussed the tremendous importance of the Commission on Historical Clarification and said that now no one can deny what has happened in Guatemala, including the approximately 600 massacres that took place during that country’s civil conflict. National and international press attention to the findings of the Commission has been very important. Now human rights groups in Guatemala are at the stage of selecting illustrative or representative cases, in particular in trying to establish a case for genocide. La Rue argued that it is urgent to present a genocide case to establish and expose the context of racism in which the atrocities committed by the military took place. NGOs in Guatemala are planning to put twenty-five individual cases into a collective case. This collective case will be brought first through the Guatemalan justice system. If a domestic remedy proves impossible, it will be taken to international legal bodies, such as the Inter-American Commission for Human Rights. NGOs are now debating the criteria for the selection of cases. La Rue noted that in addition to the support of a social base, professional and technical expertise, such as teams of forensic anthropologists to do exhumations, is critical to these cases and the work of the truth commission itself.

The Guatemalan case raised many complex questions, which were carried over into the more general discussion. La Rue questioned for example, whether NGOs have the responsibility to act on new evidence of death squad activity revealed in the newly-uncovered “Death File” (which contains pictures and records of hundreds of victims). What if acting on such evidence were to unleash a wave of violence? The tensions between stability and impunity are very real in the Guatemalan context. Participants agreed at least in theory that selecting a course to pursue must be guided by the victims themselves. Yet, the situation of groups representing victims in the capital is very different from that of those in the provinces, and their voices must be taken into account as well. Moreover, as at least one participant noted, in the Guatemalan case in particular there are enormous difficulties in getting NGOs to work together. Groups representing families of the disappeared, for example, rarely act in concert.

The complex subject of impunity was raised not only in the context of Guatemala, but in that of many other countries as well. Some raised it as a humanitarian challenge for the human rights community, which some suggested can at times be more concerned with political victories than with providing tangible assistance to the victims of human rights violations. Given the prevalence of amnesty laws and other factors that make widespread formal judicial processes impossible or unsuccessful, one possible alternative mechanism for protecting the rights of victims is the use of “*Libros Blancos*,” or “White Books.” Such lists of perpetrators, and the state of any action against them, could be compiled by independent committees that have broad authority and public acceptance. This would be an attempt to address the conduct of all sides in a conflict objectively and fairly.

SUMMARY OF LESSONS FROM GUATEMALA WITH RESPECT TO ADDRESSING THE ABUSES OF THE PAST

Goals and Challenges

1. PRESERVE the human rights of victims in the face of political pressures.
2. LEGITIMATE the human rights movement, including forming new leaders.

Strategies

1. DEVELOP education programs and outreach in human rights.
2. ORGANIZE both a social base and technical teams (e.g., forensic anthropologists).
3. INFLUENCE national and international public opinion and seek support both domestically and internationally.
4. WORK with communications media (including investigative journalists, columnists, and editorialists).
5. DEBATE AND DISCUSS issues related to the past history of violence with the victims themselves.
6. CONSOLIDATE social movements seeking justice.
7. EVALUATE the political and temporal context.

Part of the richness of this session was due to participants sharing both successful and unsuccessful experiences with the group. For example, many of the elements extrapolated from the “In the Name of the Innocents” campaign that determine success or failure can also be analyzed in the experience of attempting to change the code of criminal procedure in Colombia, as one participant shared with the group. The initial problem was that the code endowed the public prosecutor’s office with excessive powers. Many of the steps NGOs undertook paralleled those of the Peruvian campaign. First, they created an overall analysis of the problem, involving other sectors by creating an alliance with eight to nine universities to construct a technical proposal for reform. In the stage which showed that the problem had a solution, they approached the Ministry of Justice in order to incorporate public actors. NGOs then held nine regional fora to present the proposal, inviting the public prosecutor’s office to participate along with a broad audience. During that stage, seven proposals from different sectors and government officials were compared to other countries’ reforms and debated. Finally, technical work and lobbying congress – specifically targeting key committees – were undertaken to implement one of the proposals.

NGOs in Colombia now appear to be losing the battle because of a number of factors that can be contrasted with the “In the Name of the Innocents” experience.

Perhaps most importantly, ongoing extreme levels of violence hinder the establishment of a political climate for change. In addition, the power of the prosecutor's office prevented any firm commitments from the government. Finally, in the Colombian case, insufficient attention was paid to the media campaign. The success with the regional press as a result of the fora did not translate into national press attention, which could have generated far more public pressure. The importance of the media was discussed at length throughout this session. The recommendations that were made during the second morning of the workshop are summarized below.

GENERAL CHALLENGES, OBSTACLES AND STRATEGIES WITH RESPECT TO MOBILIZING PUBLIC OPINION THROUGH COMMUNICATIONS MEDIA

Challenges and Obstacles

1. CONTROLLED by government and economic powers.
2. DIFFICULTY in getting information to a mass audience (particularly television and sometimes radio).
3. MISINFORMATION and stereotypes about human rights groups by communications media.
4. DIFFERENT dialects and languages among the population.
5. LEGISLATION that limits public access to information (i.e., limits on investigative journalism).
6. CENSORSHIP.
7. INTERNAL attitude of human rights organizations that communications is a separate department and is not incorporated into the rest of their work.
8. PHYSICAL DANGER (i.e., attacks on the press).
9. MANIPULATION of communications media.

Strategies

1. ADDRESS editorial boards, columnists and teams of investigative journalists directly.
2. MEASURE public opinion independently.
3. WORK with local and regional press.
4. HAVE well-prepared proposals to present to journalists.
5. INSERT supplements or handouts in different media.
6. CONDUCT educational seminars with journalists (i.e., case studies and /or provide them sources of information).
7. FORM committees to protect journalists.
8. INVOLVE leaders of public opinion and artists.
9. DEVELOP independent, self-managed media (e.g., magazines and radio stations).

The Colombian case also raised the important issue of receiving aid from international agencies, such as USAID. Throughout the session, there were questions about accepting the judicial reform models of USAID, the Inter-American Development

Bank and the World Bank. For example, in the Colombian case, NGOs have been perceived as importing foreign proposals, which in turn is seen as interventionist. While this may not be valid, some raised concerns about the imposition of the agenda of foreign funding agencies and potential dependence on such funds and so-called foreign “experts.” In some countries, participants noted the difficulty of achieving consensus among national NGOs and the lack of a culture of negotiation which makes it difficult to respond proactively to reform proposals. Also, the close relationship between international financial institutions, such as the World Bank, and governmental institutions that receive aid often makes negotiations problematic. In terms of strategies, participants suggested conducting outreach and awareness-raising with governments, as well as building connections with international sources of support. For example, some proposed building and strengthening networks and alliances with human rights NGOs domestically and abroad, as well as with foundations.

In addition to building alliances with the human rights movement at local, national and international levels, other participants reiterated the importance of mobilizing other social sectors in order to achieve success. La Rue provided another example from Guatemala, where a campaign around a law relating to child labor and children’s rights failed. La Rue attributed this failure to the inability of the groups that work with children to mobilize a base of support. Moreover, they failed to convince the women’s movement or labor unions that they should also be involved in the campaign. La Rue said that despite having worked for years on children’s rights through workshops and outreach, these groups were not able to mobilize a political constituency to support their cause.

At least one participant noted that there is a tendency to think that legal practice can be changed through laws alone, but in reality, what also needs to change is the attitudes of judges. In many countries in the region, even when laws are changed to promote human rights, corrupt, or simply recalcitrant, judges continue to condone and even encourage practices that violate human rights, such as forced confessions or abuse of prosecutorial discretion. Thus, human rights NGOs must develop strategies that address the existing state of the judiciary, as well as legislation.

Finally, in the context of Guatemala and elsewhere, participants in this session noted that it was time to form new leaders in the human rights movement. Many feel that the new agenda for action calls for forming new alliances and opening new spaces for action, which would only be possible with new leaders. Participants cautioned that forming new leadership would take time, but argued that if the process were begun now, in five, ten, or fifteen years, the human rights movement would prove to be far stronger and more democratic.

SUMMARY OF PROPOSALS AND INITIATIVES FOR ACCESS TO JUSTICE

Challenges, Obstacles and Limitations

1. The state of the existing judiciaries (i.e., lack of credibility, lack of efficiency, and inertia).
2. Difficulty of maintaining qualified personnel in NGOs.
3. Lack of research on comparative law.
4. Dependence models imported from other countries without sufficient review.

Strategies

1. TRAIN members of the judiciary to encourage change (i.e., process and attitudes).
2. DEVELOP new litigation techniques (class actions, collective actions).
3. DESIGN conflict-resolution techniques (conciliation, mediation, "Justices of the Peace," use of customary law).
4. UNDERTAKE professional training within NGOs.
5. DEVELOP proposals and initiatives through citizen initiatives.
6. DESIGN holistic strategies, taking into account the socio-economic context and criminal investigation.
7. CREATE truth commissions.
8. REJECT amnesty laws by national governments and use of international recourses.
9. EXCHANGE experiences.
10. DEVELOP review mechanisms for military jurisdiction (military ombudsman, protection of human rights within the armed forces).
11. REVIEW of and public debate about national security policies and their relation to issues of public security and access to justice.

The donor community has already played a large role in promoting initiatives for access to justice. More recently, international financial institutions such as the World Bank and Inter-American Development Bank have taken an active role in judicial reform programs throughout the region. However, these programs have often had a narrow focus on reform for the sake of private dispute resolution and the judicial stability necessary for economic development, without sufficiently incorporating human rights concerns. These financial institutions have shown themselves to be open to human rights groups' arguments in some cases. For example, the World Bank withdrew from a Peruvian judicial reform project in the face of the virtual dismantling of the Constitutional Tribunal. But, as a general matter, greater openness and dialogue with the

NGO community will prove essential to formulating truly successful and sustainable programs.

Foundation funders could support this new phase of access to justice work both through technical support, such as ensuring that NGOs are able to seek training in comparative law for their staff, and in supporting efforts by NGOs to strengthen their capacity to mobilize civil society around issues of access to justice. Another issue that merits further examination from the donor community is the potential role of domestic and foreign universities and law schools in training and shaping the attitudes of lawyers and judges and providing NGO activists with the opportunity to be exposed to comparative legal education.

2. Democratic Policing for Citizen Security

Participants

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Organizations Represented

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In the face of rapidly rising crime, human rights groups throughout the region are increasingly aware that the human rights agenda will have to address the issue of citizen security. This work could move in several directions. NGOs have begun to focus on police reform, proposing a variety of different mechanisms to ensure accountability and transparency. The session touched on strategies for reframing public debates from “public order” to “citizen security,” defining the role of human rights NGOs vis-à-vis the police, and developing new police oversight mechanisms or community policing initiatives.

This subject and access to justice are intimately linked because they are, in a sense, the two principle components of creating a society with the rule of law. The issue of citizen security, however, is relatively new for human rights NGOs, and therefore presents some of its greatest challenges. For example, the need to move from *denuncia* to *propuesta* in this area – to move from a critique of police institutions to collaboration with police and security institutions on reform issues – challenges the historic identity of the human rights community, which was founded in an era when police forces were often the central instrument of political repression. Moreover, two very different sets of experiences were presented by participants and discussed in this session. On the one hand, there were the countries that had undergone police reform in the course of internationally monitored peace processes. On the other, there was a diverse group of countries that had experienced an explosion of social violence in recent years. Nevertheless, the group developed some concrete strategies. Indeed, it seemed that participants in this session were especially eager to hear of specific examples of successful efforts to modify police behavior and other advocacy efforts.

Both implicitly and explicitly, participants acknowledged that the subject of citizen security required working within the framework of Miller's category of less visible expressions of power. That means re-characterizing the public debate on such issues so that human rights is not perceived as antithetical to public security concerns. The workshop made clear that the subject of citizen security requires human rights NGOs to not only focus on legal or political change, but to seek a broader transformation of national political culture.

Based on considerable work done in both Latin America and Africa, Rachel Neild (WOLA) provided a broad theoretical framework for the discussion of citizen security. Elizabeth Sussekind (*Viva Río*) followed with a case study of *Viva Río*, an innovative program that was implemented with the participation of human rights groups in Rio de Janeiro. The description of *Viva Río* generated lively debates about the role of human rights NGOs in relation to the state in the public security area. In turn, this discussion touched on other questions relating to how NGOs ought to go about doing this new kind of work.

Neild described how in much of Latin America the culture of political impunity has transformed into a culture of criminal impunity. Under authoritarian regimes, crime rarely touched the wealthy, but since the advent of democratic governments, a number of factors have contributed to growing social violence. Economic policies based on structural adjustment and austerity programs have aggravated the underlying social causes of crime. Simultaneously, the social control apparatus of the state has loosened. In post-conflict situations, state-sponsored political violence, such as paramilitary activity, has easily transformed itself into organized crime for profit. Moreover, institutions of public security in these countries were developed for the purposes of social control and repression and are not suited for preventing or fighting crime. Neild noted that often the proposed reforms serve to allay the fears and concerns of the middle class, but do not get to the root of the problem.

Neild emphasized that the concern of human rights NGOs with these issues stems from the fact that:

... both the impact of crime and social violence, and the impact of the various private and governmental responses to crime, pose a major threat to the rule of law and democratic consolidation in countries with weak democratic cultures and histories of human rights abuse. When crime and social violence start to disrupt social order, democratic political order may too easily become the next victim. In environments of extreme public anxiety about crime, repressive "war on crime" measures are frequently popular, even when they undermine basic legal guarantees.

Neild also posed the central problem for the human rights community as re-framing the public discourse that often presents a "trade-off between guarantees of rights and maintaining social order, which is often viewed as the abrogation of those rights.

! countries throughout Latin America, police and judicial processes in much of the developing world remain abusive, corrupt and ineffective. Continued abuse under democratic governments, and the failure of the state to provide large social sectors with basic protections and services, are a central facet of the phenomenon that is being described as “low energy democracy” or “uncivil democracy.” ... As governments seek to improve public security and crime-fighting measures, they often resort to repressive measures that further restrict rights. In a number of countries, the response to police weakness has been to re-engage the military in internal security and public order tasks, undermining hard-won restrictions on military mandates that limit them to external defense tasks... Today, throughout much of Latin America, crime rates appear to be increasing despite policing tactics that face relatively few legal restrictions and operate under extremely weak accountability mechanisms. While good data and analyses of these dynamics are lacking, crime would seem to be rising through a period in which the police have had a very free hand to do as they like with suspected criminals... When governments do try to improve the performance of their criminal justice system, they confront the legacies of authoritarianism. Few criminal cases advance very far without some level of public cooperation in denouncing the crime to the police and providing witness testimony. Police detect few crimes without public complaints and, when they cannot obtain public assistance with their investigations, are all too likely to resort to repressive methods such as the torture of suspects to extract confessions and “fire force” policing. Yet it is precisely the record of authoritarian policing that built up social control and repressive functions at the expense of criminal investigation and crime prevention that generated the high levels of public mistrust that exist today. There is a real danger of a vicious circle in which a failure to act against crime reinforces public perceptions that government is weak, while overreaction with repressive policing measures leaves the impression that little has changed and contributes to a further erosion of confidence in the formal justice system.

Rachel Neild

Human rights groups which continue to document and denounce police abuse are often accused of ‘coddling criminals’ and of showing no consideration for the right of ordinary citizens to live in basic security.” That is, human rights organizations in particular have been slow to respond to the challenge of building (or rebuilding) civilian law enforcement institutions that respect and protect individual and civil rights but at the same time are capable of combating crime. They have been quick to denounce the abuses of police and judges, but slow to propose and support the kinds of reforms that can improve their performance. As a result, those who favor authoritarian solutions have been able in some countries to marginalize human rights organizations by successfully portraying them as defenders of criminals. Clearly, human rights groups must work to change the way the public debate on citizen security is being framed, and they must also

change their own framework for action. In practice, human rights NGOs are driven by the social realities of their countries to incorporate public concerns of crime and insecurity into their work; yet it proves far more difficult to determine what their role in this arena should be and what direction their work should take.

Much of the session was spent discussing the possibilities and strategies for working both conceptually and concretely on social violence and institutional violence simultaneously. Some participants noted that often institutional violence is justified on the basis of increased social violence. Yet, that does not mean that NGOs can ignore popular sentiment. To do so is to risk isolation and marginalization. Moreover, while it is understandable that civil society organizations are hesitant to engage closely with institutions that were key parts of the repressive apparatus, it is equally important to understand that unless civil society becomes active in promoting and monitoring reforms of these critical institutions, reform efforts are certain to fail. If that happens, the chances of consolidating democracy and restoring respect for human rights will become even dimmer.

One participant argued that this session really encompassed two subjects, which while intimately interconnected, are not necessarily the same. One issue is developing new approaches to work with police and security institutions on the protection and promotion of human rights; another is working on citizen insecurity through the lens of human rights. Others contended that they are two approaches to the same problem. Whether these are two sides of the same coin or distinct issues, far more time in this session was devoted to concrete strategies for working with police and security institutions as well as the state in general in reducing institutional violence. The tactics discussed would also affect social violence, but the focus was still on improving the record of security forces with respect to human rights protections.

NGOs face challenges in dealing with police and security institutions, with the state agencies on police reform policy, with civil society in terms of the public debate, and finally within the human rights movement itself. First, relating to police and security institutions, how can NGOs improve the receptiveness of police to human rights claims? In this regard, the subject of training was discussed at length. Human rights institutions have participated in the training of security institutions and have faced, in general, considerable resistance on the part of these institutions. There was broad agreement among the group that police do not listen to “outsiders” and that they need to hear about human rights from their own commanders to take them seriously.

As a result, there has been little compliance with the lessons taught by human rights NGOs and the training often has been ineffective. In other words, the police are certified in human rights training and can point to their good will and formal compliance, but little if anything changes in practice. One participant, however, noted that conducting these training sessions may provide a certain level of access to the police – an institution that is generally very closed and corporatist. Some discussion focused on ways to gain access to or create spaces within police institutions. This is important for human rights NGOs to develop a better understanding of the culture and functioning of police and use

this knowledge to improve strategies to promote adoption of human rights principles and overcome the police tendency to view such groups and values as alien.

A second challenge is to determine how the same institution that denounces violations of human rights can simultaneously work on reform proposals with the institutions it accuses of violating human rights. A seemingly paradoxical reflection emerged from the discussion that made it clear that sometimes the state is more willing to listen to human rights groups that denounce abuses. That is, the critique of police work and the ability to bring to bear public pressure as a result gives these NGOs a certain negotiating power with the state. This strategy is most successful when there are certain institutions of the state that have an interest in improving the function of security forces. Thus, these institutions are open to reform proposals from the same NGOs that denounce specific police abuses.

Admonitions not to view the state as monolithic also surfaced in a discussion informed by a description of the *Pro Vita* witness protection program of GAJOP in Brazil. Participants discussed the impossibility of simply importing projects or proposals in this area from developed countries, while learning from different elements of witness protection programs. For example, a program for the protection of those who had witnessed crimes committed by state agents could enhance a number of the other NGO strategies. Such a program would be financially supported by some part of the state (e.g., federal government) and the state would collaborate in investigating crimes committed by public officials or servants. GAJOP's program was begun three and a half years ago in Pernambuco and is already being expanded to seven other states in Brazil.

Several strategies were proposed to re-cast the role of human rights groups with respect to larger policy proposals on citizen security. For example, one strategy is to select a series of neutral subjects. Some suggestions included arms control, community policing, and alternative sentencing. An arms control policy implies better police work in terms of controlling the illegal circulation of weapons and, at the same time, reducing social violence. Community policing can be used as a rubric under which to work on institutional violence by the police, as well as on efficacy in crime control. Alternative sentencing can be used both to modify security and prison systems to respect the rights of prisoners and increase efficiency. Several examples of policy reform in Colombia were put forward. In that country, youth can opt to do police work instead of army service, making it possible for middle class youths to provide some measure of oversight, and therefore deterrence, for police misconduct. The feminization of the police force in Colombia has also apparently diminished abuses and corruption. Other participants noted that anecdotal evidence suggested the same was true with respect to the feminization of police forces in other countries.

Another proposed strategy is to seek out positive models. For example, legislation reducing the age of penalizing minors as adults from eighteen to sixteen years might ordinarily lead human rights groups to launch a denunciatory campaign. Yet it was suggested that an award system could be established to single out instances where minors had been assigned an alternative form of oversight, without subjecting them to criminal

sanction. That is, institutions and judges that successfully applied alternative sanctions to minor offenders could receive some form of award rather than simply denouncing those systems that did not function well.

With respect to civil society, there was a clear imperative among participants in the session to develop a counter-discourse which recognizes that the way to handle social violence is not through greater powers for police and fewer constitutional rights. The importance of packaging for public consumption was repeatedly emphasized. For one participant from El Salvador the issue was that it is difficult to convince the general public that this is a human rights problem and not merely a question of quality of life. He also pointed out that merely making structural reforms is not enough. For instance, in El Salvador, police reform after the peace accords included restructuring the police forces to integrate 20 percent of new recruits from each side in the civil conflict. Yet the new police were totally ineffective in stemming social violence and continue to abuse human rights. Human rights groups that pressed for compliance with the accords now realize that reform must go beyond the implementation *per se* as it is clear that the police continue to fall short of satisfactory standards.

Other participants noted the obvious need to link the ineffectiveness of the police with a lack of human rights in the public consciousness. NGOs ought to generate analyses and research on the connections between social violence and police violence, or among police inefficiency, police corruption and social violence. In other words, it is up to human rights groups to establish a discourse that makes it clear that police violence is not linked to greater efficiency in crime control. On the contrary, the violence of security forces contributes to and generates social violence and at the same time it is ineffective in solving the problems of social violence. This might be demonstrated through the dissemination of the low percentage of crimes that are reported to police (which in some Latin American countries is under ten percent). Another issue of public concern is the growing state expenditure on security that has presented little visible return for taxpayers.

Finally, work in this area requires research and investigation. Participants agreed that often police acknowledge the value of information that human rights NGOs have gathered about their police work. Also, police often have empirical data, yet have not systematized it. They recognize that human rights NGOs and other sectors of civil society have valuable information on matters of security. On the other hand, NGOs have a long learning curve in terms of police and security structures, especially with respect to developing positive models of how police ought to function.

In addition to discussing particular challenges and strategies, there were several other debates and discussions that went on for some time. One debate related to the question of how NGOs can participate, and the limits to that participation, in programs of community policing. That is, is it the role of NGOs to insist that the state is in charge of guaranteeing the right to security or, with certain limits, could NGOs participate in programs that guarantee the security of inhabitants of a specific city or location? This

discussion arose in the context of Sussekind's presentation of the specific example of NGOs in *Viva Rio*.

Viva Rio is a program that has been operating in Rio de Janeiro, Brazil, for five and half years. In describing this project, Sussekind stated the program is "an example of interchange between civil society and the state that deserves to be discussed." The *Viva Rio* movement combines several ways of integrating different actors and geographic areas of the state in order to reduce violence and social marginalization. The first meeting of the group that would come to make up the *Viva Rio* movement was in September 1993 after two dramatic events: the murder of eight street children near the Candelaria Church in the center of the city in July, and the murder of twenty *favela* inhabitants from the northern zone in August. Sussekind noted that these events dramatized an atmosphere marked by many insecurities – political, economic, social, and even those of identity. The first meeting of thirty people (chosen because they were leaders of public opinion) was faced with the question of what could be done. Later, a broad cross-section of different social sectors was included in a governing council that oversees the work of *Viva Rio*.

The *Viva Rio* movement has undertaken diverse programs. In addition to security and human rights, which has involved the Minister of Justice and NGOs, they include youth and adult education and community development (including micro-enterprise credit programs). One controversial program Sussekind described involves providing education and employment for local youth involved in drug trafficking. This program encourages changes in their lifestyle over time, including relinquishing weapons. Sussekind argued that these programs are designed to respond to what works, in a very pragmatic sense. She noted that police had told *Viva Rio* that outside human rights training just did not produce any changes. On the other hand, working directly with the community to promote alternative conflict resolution techniques, legal training and community policing has proven successful.

Sussekind discussed how, with funding from the Ministry of Justice, the Ford Foundation and the United Nations Development Program (UNDP) among others, *Viva Rio* has created a "*Baucón da Justicia*" – a sort of "shop-counter" approach to justice. The twenty marginalized communities involved with this project have been singled out as successful models by the UNDP. The *Baucón* is staffed by lawyers and law students, as

There is a whole panorama that we want to change [with Viva Rio]...[For example,] there's a strong campaign for disarmament., for gun control legislation, so that guns can stop [being such a problem in] Brazil...[F]or adolescents, gunshot wounds are the number one cause of mortality in Brazil. We're looking for alternatives, we're looking for discussion. We have projects on community policing and police training. The police are so under-equipped at this time that they are looking for training, they ask us for it and they ask for alternative modes of training. [They don't need] someone to give them human rights classes from the outside; it doesn't work; there aren't changes. Everyone says 'sure, go ahead [and give us classes]', but it just doesn't work...

Elizabeth Sussekind

well as community leaders. It serves to provide education in people's formal rights, and also became involved in settling disputes within what Sussekind referred to as the "internal law of the *favelas*." Local drug gangs that run the *favelas* started referring people to the *Baucón* to resolve their problems, which were a source of enormous violence within the communities. Sussekind insisted that such a flexible approach to dispute resolution was necessary because the formal legal system does not reflect the problems of the very poor in a nation such as Brazil.

Sussekind noted some of the factors that have contributed to the success of the *Viva Rio* campaign. First of all, there was no professional management of the movement. Both institutions and prominent individuals from different social sectors volunteer their time and involvement. Second, local focus – that is, the city of Rio de Janeiro – was important in creating an identity. Third, the governing council functioned by consensus. The council was not expected to make pronouncements on every subject, but rather to provide guidance as to elemental principles and goals. Sussekind noted that "this strategy of consensus produced a dynamic experience, filled with delicate moments of acute tensions... There was never a charter of principles or even a process of mutual consultation because the common sense or feeling was modifying and evolving over time." A fourth factor that was critical in the success of the campaign was visibility. In each year between 1994 and 1997, more than a thousand articles about the campaign were printed in the Brazilian press or appeared in the media. Fifth, financing for *Viva Rio* has come from many sources, both domestically and from abroad. Sussekind described the financing strategy as "flexible" with resources coming from the federal, state and municipal levels of government, as well as international sources. Finally, Sussekind reiterated that *Viva Rio* has a very proactive, positive orientation. Rather than denunciations or demands, specific pragmatic solutions are proposed.

Summary of Key Success Factors in *Viva Rio* Program

1. VOLUNTEER work and involvement of leading individuals from many social sectors.
2. LOCAL identity.
3. DECISION-MAKING by consensus – and flexibility in adapting to reality.
4. VISIBILITY and media attention to program.
5. PROACTIVE, concrete proposals as opposed to denunciation and demands.
6. VARIED sources of financing.

Participants in the session were intrigued by the Brazilian example, but it also engendered some interesting debates on both practical and theoretical levels. On a practical level, some commentators questioned whether such NGO involvement in that type of citizen security program was sustainable and in how many places it could be done. Another related problem that some mentioned is the limited human resource

capacity of human rights groups and they queried whether it is NGOs that should be providing intellectual resources to establish and manage community policing and security systems.

On a conceptual level, others questioned whether this was an example of a program carried out by a human rights NGO or whether it was really an example of work done by a community organization. On the one hand, in terms of daily activities, people conceded that the characterization of the work may not be important. However, from a strategic perspective, there is a valid question about the identity of NGOs involved in community security programs and about which groups are the most appropriate participants in community policing programs. Some felt that human rights groups do not have enough of a “base” to be effective in such a program. In contrast, human rights NGOs can bring to bear insights and criminal justice expertise as well as some ability to access and pressure policy-makers and the media.

A related subject that was discussed in detail was that of the overall relationship between human rights groups and the state in terms of presenting proactive proposals. Traditionally, the area of security has been the work of the state; however, participants agreed that due to their weak or unclear objectives and poor follow-up and evaluation mechanisms, the state is often ill-equipped to design and implement reform policies. Often projects change when personnel from state institutions and ministries change, which implies a risk for human rights groups participating actively in such projects. There was general agreement that it is still up to the state to undertake and implement security programs and that it is the role of NGOs to consult with the state on these issues. Although there was consensus that NGOs must be engaged in follow-up, fomenting and monitoring police and security institution reforms, not everyone agreed on how or to what extent to do so. For example, some questioned whether it was wise for human rights advocates to become experts on policing techniques or whether it was best to focus more narrowly on human rights related proposals.

One problem that was acknowledged is that the proposals of human rights groups are always subject to the whim of public functionaries and particular political atmospheres related to, for example, election seasons. Often, human rights groups will work very hard to open finally a door with a government official only to have that door closed due to completely unexpected circumstances. In this regard, the importance of the municipal level was repeatedly stressed. Successful examples, such as *Viva Río*, have been local. Participants did point out, however, that in these cases there is a challenge for NGOs to move their citizen security agenda to the national policy level. The difficulty of institutionalizing policy decisions is a problem that goes beyond the question of citizen security. Whenever human rights groups are engaged positively and proactively with the state, they run the risk of capricious changes on the part of individuals or administrations.

This session also touched on the issue of whether these community and citizen security programs ought to be seen as defending the right to security as a basic human right. Some argued that the state’s obligation to protect the rights of citizens to basic

security should be linked to other rights that the state has not adequately protected such as health and education. These participants saw linking security to economic, social and cultural rights as one way to insert security into the overall human rights debate.

Others questioned whether it is wise to have security permeate the rest of the so-called “social” rights. That is, if there is an inordinate focus on crime prevention, issues of employment, education and family matters may come to be seen only from the perspective of security. It was suggested that this would “relativize” the other social rights and give them a secondary priority. For example, some worried that the discourse could become such that modes of education, family structure, or use and development of public spaces would be justified in the name of security. This, in the extreme, could result in a “short-cut to fascism.” Some said that if human rights groups were to participate in the extension of a right to security, they would be able to sustain their participation only insofar as such participation was limited to certain concrete strategic or tactical steps. But the question remained as to how far human rights groups could go and still retain their identity and integrity.

It was absolutely clear from this session that the area of citizen security is a new one for human rights groups and calls for real innovation. Indeed, one participant explicitly urged the group to use imagination in coming up with ways to undertake this work, noting that it had taken years of imagination to envision Pinochet on trial, but now he is in fact under house arrest. An internal challenge for the human rights community is to build up a knowledge base about police work and security issues. NGOs tend to know what police should not do, but not what they should be doing. If the human rights community does not build up such a base and begin to enter this area of work, participants agreed that others – probably from a purely law enforcement perspective – would do so. Donors could support the efforts of NGOs in this regard by providing funds for different experiments in creating such a capacity and knowledge base among human rights NGOs. Activities in this area, much less achievements, ought not to be expected overnight. Indeed, further meetings or channels for the exchange of information, ideas, and experiences would be especially fruitful for NGOs working in this area.

SUMMARY OF CHALLENGES AND STRATEGIES IN CITIZEN SECURITY

Challenges

1. **RESHAPE** the debate on public order to one of citizen security, which includes a human rights component.
2. **POSITION** the human rights community between the problems of institutional violence and social violence.
3. **FIND** ways to have the police listen to human rights claims.
4. **DENOUNCE AND ENGAGE** proactively with the police simultaneously.
5. **MAKE** best use of limited NGO resources.
6. **OVERCOME** weak governmental will to carry out reforms.
7. **RETAIN** a human rights perspective when consulting on security issues and avoid viewing all social rights through a security lens.
8. **AVOID** marginalization of human rights due to the perception of NGOs as “defending the rights of criminals.”

Strategies

1. **GIVE** neutral description of subjects.
2. **HIGHLIGHT** police abuse and corruption as part of the problem.
3. **PRESENT** affirmative proposals (e.g., incentives for crime prevention or positive actions by judges).
4. **TRAIN** police in human rights.
5. **SEEK** alliances within police and security institutions to work internally on reform.
6. **CONDUCT** systematic research and investigations about police and security, and develop serious expertise on these issues within the human rights community.
7. **WORK** with local neighborhoods; community policing initiatives.
8. **INCORPORATE** crime victims’ perspective into human rights work.
9. **COMPARE** and share “best practices” and successful strategies for work on public security reforms across the region.

3. Economic, Social and Cultural Rights

Participants

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Organizations Represented

Washington Office on Latin America (USA & Guatemala), Asociación Pro Derechos Humanos (Peru), CODEH-Ica (Peru), Plataforma de Derechos Humanos & ILSA (Colombia), Centro de Estudios Legales y Sociales (Argentina), CEDHU (Ecuador), Centro de Derechos Humanos Miguel Agustín Pro Juárez (Mexico), PROVEA (Venezuela), CEDLA/CBDHDD (Bolivia), Centro de Derechos Económicos y Sociales (Ecuador), CEAPAZ (Peru), INESC (Brazil), CEDAL (Peru), Proyecto Incidencia/CAII (Guatemala), MNDDHH (Brazil), Instituto de Defensa Legal (Peru), Plataforma Latinoamericana de NOVIB, Consejería Latinoamericana.

As the most acute political violence has diminished and growing income inequalities have become impossible to ignore, the area of economic, social and cultural rights (ESCR) is increasingly incorporated into the work of human rights NGOs in the region. This session addressed the important conceptual and practical debates in this field. There were discussions about the scope and definition of ESCR; the obligations of states to fulfill both immediate minimum obligations and to progressively realize ESCR over time; and the potential utility of statistical indicators in this work. Participants also discussed the different approaches to conducting ESCR advocacy, ranging from using legal mechanisms to advance judicial enforcement of these rights to creating alliances with social movements (such as indigenous groups) to influence policies affecting such rights. This session covered the particular obstacles faced by human rights groups in ESCR advocacy, as well as the urgency of expanding the work of the human rights movement into this area.

The dynamic of the ESCR session was markedly different from the others in the sense that there was a wide variation in the levels of experience among the participants. Some NGOs have been working in the field of ESCR for years, while others were interested in finding out how to begin to do so. Indeed, some participants were already active in regional networks for the promotion of ESCR and had participated in the drafting of the 1998 *Declaration of Quito on the Justiciability and Realization of*

Economic, Social and Cultural Rights in Latin America and the Caribbean. Others were not as familiar with previous discussions that had taken place around ESCR.

In this session, the three experiences that launched the discussion were from Ecuador, Peru and Venezuela. Christopher Jochnick described how in Ecuador, the Center for Economic and Social Rights (CESR) organized a campaign against a multinational oil company in defense of the rights to health and a healthy environment for indigenous communities. María Isabel Bertone highlighted some of the ways that PROVEA, in Venezuela, has used the *amparo*¹ effectively in working to make ESCR enforceable through judicial remedies. Eduardo Cáceres (APRODEH) spoke about the use of statistical indicators in ESCR advocacy and the experience of the Working Group on ESCR of the *Coordinadora* in Peru. After the three presentations, which took quite different perspectives and provided distinct levels of theoretical analysis, a broad-ranging discussion of the many challenges and potential strengths of ESCR work ensued.

As in the case of the “In the Name of the Innocents” campaign, the work CESR has undertaken with respect to petroleum-related contamination of a region in eastern Ecuador provided an in-depth case study which served to illustrate much of the later discussion about obstacles and strategies. Therefore, this report devotes considerable space to the CESR example. CESR's campaign was in response to actions taken by multinational petroleum corporations, together with the state-run oil company, *Petroecuador*, which had dumped billions of gallons of toxic waste into the area, poisoning the land and water and causing serious health problems to surrounding communities. Local community groups had managed to draw attention to these problems, but their campaigns lacked both scientific data and legal force. CESR's strategy involved four discrete stages or steps: 1) documenting the violation of ESCR; 2) publicizing the findings; 3) undertaking legal and political initiatives, both in Ecuador and abroad; and 4) building capacity and strengthening local actors.

The first step, documenting violations of what Jochnick termed “the rights to health and a healthy environment” (RHHE), required more than the legal investigation and interviews which traditional civil and political rights advocacy requires. With a team made up of a doctor, two lawyers, an Ecuadorian biologist, a toxicologist and a public health expert, CESR collected samples from local water supplies and interviewed and examined local residents. A U.S. laboratory confirmed high levels of toxic wastes linked to oil production in the water samples, and the medical examinations indicated exposure to these contaminants. Later interviews with local activists, indigenous leaders, officials and representatives from the oil companies uncovered a lack of effective regulation of the oil industry and an absence of basic legal protections for affected Amazonian residents.

¹ *Acción de Amparo*, which literally means “protection suit” and is often translated as “writ,” is a mechanism whereby individuals can vindicate constitutionally-protected rights. The causes of action permitted through an *amparo* suit and the protections afforded by the grant of an *amparo* vary from country to country, as do the courts and circumstances by and under which they can be issued. However, throughout the region, the *amparo* suit is an important instrument in the protection of individual human rights.

In terms of the actual allegations of violations, due to the somewhat uncertain status of ESCR obligations under international law, CESR took a minimalist approach, highlighting only the most unambiguous breaches of international law: violations of the obligation to respect the RHHE based on the government's direct involvement in contaminating drinking water supplies through the activities of the state oil company (*Petroecuador*) and violations of the obligation to protect the RHHE based on the government's lack of regulation of private oil companies. CESR also alleged violations of procedural obligations related to the RHHE including citizens' rights to an effective remedy and to basic information about activities threatening their health.

The next step was to publicize the findings. After producing the report in Spanish and English, CESR held press conferences in both the United States and Ecuador. Subsequently, CESR and local activists organized fora in Quito and the Amazon targeting NGOs, government leaders, academics and community leaders to discuss the report's findings. CESR worked with local partners to produce and disseminate a comic book to make the issues more accessible to a wider audience.

In terms of the third step of taking legal and political initiatives, CESR and partners took advantage of a number of different fora to foment change. In Ecuador, CESR and its allies helped prompt a congressional investigation of Texaco and *Petroecuador* that led to a three-day trip with high ranking administration, congressional and industry officials, as well as media and community leaders. In the United States, CESR and other U.S. NGOs helped organize interviews of Ecuadorian environmental and indigenous leaders with the administration, Congress and World Bank officials. CESR also participated in a groundbreaking lawsuit on behalf of Ecuadorian plaintiffs against Texaco in U.S. federal court. Also, two separate legal actions related to the oil issue were brought by other groups before the Inter-American Commission on Human Rights and the International Water Tribunal in Europe.

Among these various legal initiatives, Jochnick said that the most useful had been the lawsuit against Texaco in the U.S. courts. Jochnick emphasized that the significance of litigating ESCR cases goes beyond establishing a legal precedent of the enforceability of ESCR:

The U.S.-based lawsuit against Texaco has probably done more than anything else to raise the profile of the oil problem and to change the terms of the debate from one of government needs and environmental problems to one of rights and violations... Despite the lack of progress on the case, it has attracted enormous media attention in Ecuador and internationally, and has provoked a great deal of congressional and governmental activity in Ecuador. The suit has reinforced the idea among the Ecuadorian public that "rights" are at stake and that the industry has been acting with irresponsible double standards. Texaco has clearly felt pressure from the lawsuit and has made payments to some of the most prominent Amazonian indigenous leaders to undermine organizing around the case.

Litigation not only has broader political and consciousness-raising implications, but even when unsuccessful, it can be a valuable tool in the arena of changing the behavior of private actors.

Finally, CESR and its allies have used the report to raise awareness about the RHHE and to build capacity and long-term oversight and activism around these issues. They designed workshops, which helped spark the formation of the *Frente de Defensa de la Amazonía*, a coalition to support the Texaco suit and to fight irresponsible oil activities.

Summary of Steps in CESR Campaign for the Rights to Health and a Healthy Environment

1. **DOCUMENTING the violation of ESCR.**
2. PUBLICIZING the findings.
3. UNDERTAKING legal and political initiatives, both in Ecuador and abroad.
4. BUILDING capacity and strengthening local actors.

The successes Jochnick recounted of the struggle against irresponsible development in the *Oriente*, or Amazon, are impressive and encouraging for other campaigns of ESCR advocacy. First of all, Jochnick noted that significant political gains have been achieved. The Ecuadorian Congress is much more concerned and active in overseeing environmental and social issues related to oil and is now working on a new and stronger law, with the participation of social leaders, to control future oil development. For the first time in Ecuador's history, two large parks were recently declared off-limits to industrial development. In addition, popular protests have twice forced the government to reverse itself on the Texaco case in order to support the Ecuadorian plaintiffs.

Perhaps most importantly, the campaign was successful in challenging power structures on two levels: that of policy-making and that of the individual consciousness. The Amazonian population and the general Ecuadorian public are more aware of the impact of oil development, since these issues are regularly raised in the mainstream media in Ecuador. Moreover, Jochnick asserts that an active network of communities and local institutions in the Amazon have organized around the issue of oil and have been able to insert themselves into the national debate over future development.

While the promotion of the “rights to health and a healthy environment” in the Oriente has required a long-term investment in the region and has encountered a number of setbacks, on balance, it has been very successful. The impact of rights language and instruments – of “rights advocacy” – is not only evident within the struggle over oil, but has spread to a number of other contexts. Economic, social and cultural rights (ESCR) have become common currency among Amazonian communities, and community groups have been encouraged to use these rights in their work more generally. The media, the government, the public, the judiciary, lawyers, social movements and a wide variety of NGOs have been exposed to ESCR through the struggle around oil. This consciousness raising and experience with the legal ESCR instruments is bound to have ripple effects... Recent campaigns around health, education, worker rights, indigenous rights and external debt have all employed the rhetoric and instruments of ESCR and have begun to develop legal actions around these rights.

It would be hard to point to any concrete gains [e.g., less poverty] based on these activities, but there is much reason to hope that the public awareness and increased activism will eventually translate into greater respect for ESCR. ESCR will rarely enjoy the quick, tangible fixes and legal victories common to the [civil and political rights] field, such as freed activists or punished torturers, making sustained grassroots activism the critical frontier. This work is more complicated, slower and harder to measure, but there are many new allies warming to the task and as the field matures, advocacy efforts will only grow more powerful.

Christopher Jochnick

Local indigenous groups are now much better informed about the risks of oil development and their rights. In some instances, they have managed to force companies to consult or even negotiate with them before beginning operations in their areas. According to Jochnick, private companies no longer dump their wastes, as was the practice with Texaco. A number of international institutions also put pressure on the government and the oil industry, including the World Bank (a loan was held up by the issue), the Organization of American States (OAS), the International Water Tribunal, and the U.S. Congress and the U.S. State Department.

María Isabel Bertone devoted her remarks to discussing the ample experience and work of PROVEA with ESCR. PROVEA has concentrated on increasing the enforceability of economic, social and cultural rights. In that regard, PROVEA has used

Some of the essential elements of the right to health [in PROVEA's scheme] are: non-discrimination; accessibility; prevention; protection against health hazards; medical attention; emergency care; special attention to vulnerable sectors; free services; respect for dignity and integrity; participation; availability of judicial remedies; and information. Therefore the minimum State obligations would be characterized by: the potential to provide basic health services to all citizens; ensuring respect for the equality of all persons; instituting effective measures to prevent discrimination; prioritizing efforts to rectify imbalances in the distribution of resources in the health sector, with the goal of raising the level of protection of disadvantaged groups; definition and treatment of health services as a public good and not a source of income; recognition of some form of actionable right to health protection and services; stipulation of affordable and accessible mechanisms through which people can present claims with respect to violation of their right to health; and finally procedures for the participation of individuals and groups in setting priorities for the health sector, as well as for monitoring its responsibilities.

Excerpts and summary of Bertone's presentation of PROVEA's view of the minimum core content of the right to health

the *amparo* recourse effectively, demanding restitution of the rights to health, social security and education. In the case of the right to health and social security, for example, PROVEA filed an *amparo* action in August of 1997 on behalf of ten patients who were affiliates of the Venezuelan Institute of Social Security (IVSS). The patients had been hospitalized in the neuro-surgery unit of the Hospital Domingo Lusiani in Caracas waiting for over a year for brain surgery to be performed. In late August 1997, the trial court (*Corte Primera en lo Contencioso Administrativo*) ruled in favor of the plaintiffs and against the negligent conduct of the IVSS on the basis of an imminent threat of violation of the right to life, as well as violations of the rights to health and social security. The court's judgment confirms the responsibility of the Venezuelan state as guarantor of social security and recognizes the provision of medications as an integral part of the right to medical attention. However, the court did not make any pronouncement about the conditions in the intensive care unit nor the budget of the hospital, although PROVEA had raised that issue as well.

Because the international instruments that address ESCR discuss their "progressive realization," much theoretical debate is often devoted to the question of how to measure the progressive implementation of ESCR obligations under international law. There was some discussion about that issue here. With respect to the right to education,

PROVEA has established a significant precedent with respect to the “non-regressiveness” of ESCR. That is, at a minimum, states have the obligation not to backslide in terms of their ESCR obligations. In a case where the public *Universidad Simón Bolívar* – which had previously offered free higher education – attempted to require monthly payments of approximately U.S. \$100 dollars PROVEA used the *amparo* to deem that action unconstitutional. The trial court (*Corte Primera en lo Contencioso Administrativo*) agreed that it violated article 78 of Venezuela’s Constitution and Article 13 and 26 of the International Covenant on Economic, Social and Cultural Rights and the American Convention on Human Rights, respectively. On appeal, the Supreme Court ratified the *amparo* decision.

Through this discussion, it emerged that other groups had also used the *amparo* successfully in the defense of ESCR. For example, in its program on ESCR, CELS of Argentina had marked success with the *amparo* in securing the right to health in a case involving the manufacture of a vaccine against Argentine Hemorrhagic Fever.

In spite of these positive judicial decisions, however, there is a significant limitation in Venezuela – as well as in a number of other Latin American countries – to using the *amparo* remedy to make ESCR enforceable through judicial processes. That is, such suits are limited to establishing or remedying the situation of the particular individual in front of the court. The recognition of the violation and the consequent reparation is not generalized to the rest of the citizenry who find themselves in similar circumstances. This means that until the jurisprudence in Venezuela and other similarly situated countries recognizes the possibility of collective or representative actions, the benefits of these cases will only be seen by the individual plaintiffs. In short, the *amparo* is clearly a valuable tool in ESCR advocacy, but its effectiveness could be markedly enhanced by lobbying for changes in the legal system itself – in the “rules of the game” – to allow for collective cases and precedents.

There was also some discussion concerning the different merits of making judicial remedies available versus entering into a public policy debate about the definition of such rights. For example, it is one thing to go to court in a case regarding access to education; it is another thing to get involved in the content and methodology of that education. Cáceres’ presentation touched on some of these issues; however, these different ways of pursuing ESCR work certainly deserve further discussion.

In this session, some debate took place regarding the role of minimum core contents or requirements for ESCR and whether working only on minimum core contents could undermine efforts to promote state fulfillment of progressive obligations. In other words, the international instruments call for progressive realization of ESCR, but there are differing interpretive statements by both treaty-monitoring committees and international scholars on the immediate obligations that states have with respect to providing at least “minimum core contents” of ESCR. Bertone described PROVEA’s pragmatic position:

Setting a minimum uniform limit beneath which no state can fall does not weaken the right in question, as long as such minimum content is understood to be a point of departure and not an end point; on the contrary, to establish this framework ensures a uniform base that should be respected even by states with inadequate economic resources or that are experiencing critical economic situations.

While often taken for granted in the civil and political rights field, arriving at a shared and clearly defined understanding of the norms is an essential first step for NGOs in being able to conduct effective advocacy on ESCR. Bertone explained that having a conceptual understanding of these core elements and of the interventions and responsibilities they implied for the state permitted PROVEA to move forward in terms of education and outreach. This includes the production of educational materials, posters, pamphlets and a forth-coming video. Moreover, it has permitted PROVEA to have a foundation for dialogue with state authorities, as well as to participate in public debate from the perspective of the human right to health.

Cáceres spoke about the social, political and economic obstacles to conducting ESCR advocacy and the importance of a clear conceptual understanding of ESCR. He grounded some of his remarks in the experience of the ESCR working group of the Peruvian *Coordinadora*. Cáceres focused more than Jochnick and Bertone on the need to address individual consciousness about ESCR:

The strategies today have to confront diverse and serious problems...It is about reversing a logic of “cynical pessimism and irresponsible complacency” and promoting attitudes of “less fatalism and more indignation”...The great remaining goal is to construct a culture of rights that sustains renewed forms of social and political life for Peruvians.

In following the paradigms set out for this conference, ESCR advocates must not only fight for changes in the political arena, but must attempt to gain a voice in decision-making processes so that ESCR concerns are placed on the public agenda. They also must work on the level of consciousness so that people perceive the issues of poverty and marginalization not as misfortune, but as injustice. Throughout the session, this theme was picked up by participants who emphasized the importance of raising public awareness about ESCR as rights. Some

described the challenge as conveying the indivisibility of all human rights, including ESCR.

One central activity linked to following and publicizing the situation of ESCR in Peru has been the publication of an annual report by the Coordinadora's ESCR working group. Echoing what had been said in other sessions about the importance of working in a coalition to confront these new agendas, Cáceres explained that the task contained various challenges as well as rewards. On the one hand, different members' partial visions of ESCR must be converted into one global vision of the ESCR situation in Peru. On the other hand, through the process of putting together the report and researching different subject areas, social networks are constructed by necessity.

Cáceres emphasized that in all of this work, methodology is very important, and within methodology, the place and function of statistical indicators is critical. Statistical

indicators can refer to either inputs, such as per capita expenditure on health or education, or outcomes, such as infant mortality or literacy rates. Cáceres felt that indicators have to be developed to measure what really matters from a human rights perspective. Existing statistical indicators can be misleading or inadequate in human rights terms. This point is critical because what is measured reflects what is being thought about, which in turn is what shapes public debate. So in order to shift the public conversation to one about people's well-being

rather than one about economic modernization, the indicators of Gross Domestic Product (GDP) or Gross National Product (GNP), for example, have to be replaced or supplemented by others that capture the extent of well-being.

It has been amply demonstrated that production-oriented and quantitative visions of development put in question the practical realization of all human rights. The growth of GDP per capita is not equivalent to the well-being of a particular society. Even more complex indices, such as the one used to measure human development by the UNDP, suffer from the problem of losing sight of how complex development is as an eminently qualitative process. The statistics that are used tend to take into account the provision by the state of some goods and services...It is not possible to equate the existence of rights – which are in the first place inter-subjective entitlements – with the values of objects put at the disposal of citizens. A measurement of the existence of rights...that concentrates on state expenditures, and the quantity of available goods and services in a determinate area of social life – education, health, housing, for example – does not capture the crucial question: How much has the autonomy and dignity of the citizen grown? ...What is required, therefore, is not only redefining visions of development and human rights that are taken for granted, but also constructing methodologies and instruments for planning and evaluation that are consistent with the new conceptions that are adopted. If, for example, it is assumed that development is a qualitative process that points to better well-being and this comprises at least four areas – needs, capabilities, rights, and feelings – it is then necessary that this perspective be transformed into concrete instruments in each of these [areas]...

Eduardo Cáceres

A number of other groups, most notably PROVEA, have focused on creating workable indicators in this field. For its part, PROVEA has arrived at two general guidelines or criteria for the use of indicators. The first, according to Bertone, is not to pretend to create an exhaustive set of indicators, but rather to choose them selectively according to the nature of the particular actors who are doing the monitoring and according to the specific characteristics of the right being monitored. A second guideline is to work together with experts in the area so they can actively incorporate the human

rights perspective into their technical vision. In a similar vein to Cáceres' comments, Bertone suggested that an attempt should be made to have government institutions incorporate a human rights perspective into their traditional indicators and to design, finance and use the information systems necessary to collect and maintain the up-to-date information often requested by NGOs.

The conclusions of the session's wide-ranging conversation can be divided into areas of consensus and areas of disagreement. Participants agreed, first, that ESCR form an integral part of human rights together with civil and political rights and that these "sets" of rights are indivisible and inter-dependent. Second, the content of ESCR is defined in international instruments, constitutions and international and national jurisprudence. Third, the subjects of ESCR can be both individuals and collectivities, such as indigenous communities. Finally, participants agreed that the subject of ESCR still requires both discussions within the human rights community and concrete work to delimit its boundaries and define its characteristics; there are still relatively few advocacy models to follow.

The areas of disagreement were both conceptual and strategic. First, as to the normative concepts, there was a certain amount of discussion about whether it is only the state that can violate ESCR or whether other actors can also be perpetrators. Some suggested that, along the lines of jurisprudence from the Inter-American Court of Human Rights, it is the state that violates the rights of its citizens when it allows private persons or groups "to act freely and with impunity to the detriment of the rights recognized."² Others argued that international law supports the idea of holding private actors, such as multinational corporations, directly liable. These participants further argued that states have lost much of the sovereign control implicit in human rights treaties, and therefore activists must address not only state conduct, but debt burdens, free trade policies and overwhelmingly powerful private corporations. For example, in the case of Ecuador, Jochnick argued that while "*Petroecuador* was a major player in the Amazon, most of the damage had been wrought by Texaco, a company with four times the annual earnings of Ecuador's GNP."

In terms of strategies, although there was agreement about incorporating the struggle for ESCR into the human rights movement, there were two separate approaches to achieving that goal. The first approach is that the human rights movement should fight for all ESCR without pre-set boundaries or limits because all ESCR are in fact human rights. The second approach is based on the premise that the human rights movement has to prioritize and limit its work on ESCR in order to distinguish itself from other social movements. Some suggested that as a practical matter, human rights NGOs simply do not have the knowledge or tools to expand their methodology to broader social movement questions.

Participants suggested a variety of methods for retaining a distinct identity for the human rights movement, many of which reflected the discussion of CESR's work in Ecuador and PROVEA's work in Venezuela. For example, NGOs can insert their voice

² See Velásquez Rodríguez Case, Inter-Am Ct. H.R. para. 166 (Aug. 31, 1988).

in political debates in order to insist upon the indivisibility of human rights. Second, NGOs ought to complement but not substitute for social movements (e.g., unions, neighborhood groups and indigenous people) in their struggles. Third, NGOs can use their experience and knowledge to submit public policies to a kind of human rights test (i.e., subjecting proposals to human rights criteria). Finally, a number of people noted that the unique position of human rights NGOs allows them to champion ESCR in the international arena, with inter-governmental organizations and transnational corporations, as well as to shape international public opinion.

Summary of Challenges for Work in Economic, Social and Cultural Rights (ESCR)

1. RAISE consciousness about the indivisibility of rights and the importance of ESCR.
2. DEFINE a profile for the human rights movement in the struggle for ESCR that distinguishes it from other social movements and complements their work.
3. INVENT or reinvent institutions for the defense and protection of ESCR that are not (or should not be) the same as traditional institutions to protect civil and political rights. While civil rights violations are monitored and protected by Attorneys General and Human Rights Ombudsmen, new institutions are required to monitor violations of ESCR and to hold violators accountable.
4. INVENT or reinvent legal remedies for the defense and protection of ESCR that are not (or should not be) the same as traditional legal remedies to protect civil and political rights. For example, collective remedies should be sought as well as individual ones.
5. ASSUME work in the public sphere – in both public policies and budget setting – as a space for working on ESCR and avoid remaining solely on the level of civil society.

While participants agreed that there are many challenges in ESCR advocacy, many repeatedly mentioned the advantages of this work, such as the potential to mobilize populations. Given the degree of poverty and economic hardship in Latin America, not only is there a much broader potential constituency among the grassroots for ESCR advocacy than civil and political rights advocacy, but, as one participant put it, without addressing ESCR the human rights movement risks becoming irrelevant to those it claims to represent.

In sum, this session showed the tremendous potential that exists for the human rights community to expand its work on ESCR. This, in turn, produced several implications for the funding of this form of human rights work. First of all, there is a need to include ESCR in human rights funding priorities. For example, Jochnick noted that in the case of the Ecuadorian Amazon, both documenting and litigating violations of ESCR caused by petroleum companies had been very difficult and costly, with water samples costing up to U.S. \$1000 per sample and the lawsuit against Texaco already running over U.S. \$300,000.

But there is also a need for different evaluation criteria for ESCR work, which takes into account its long-term social network-building aspects. In Miller's paradigm, ESCR strategies require different arenas for action besides the traditional political arena which are harder to quantify. Even when conducting fact-finding investigations and documentation, specific results may be harder to pinpoint, in contrast to the release of a given number of innocent people in the case of justice campaigns. Finally, the discussion pointed to the need to sponsor smaller group meetings to facilitate the sharing of concrete experiences and cases. Meetings that could promote the organization and exchange of information between social networks that focus on particular subject areas, such as health or education, would be particularly useful. Such meetings would, for example, permit a deeper discussion of indicators and minimum core contents specific to certain rights.

Summary Matrix of Strategies to Promote Economic, Social and Cultural Rights

Level/Strategy	Availability of Judicial Remedies	Public Sphere and Monitoring	Social Networks and Exchanges
Local	Exploration of mechanisms for increasing the availability of judicial remedies for ESCR with local governments.	<ol style="list-style-type: none"> 1) Citizen participation in monitoring municipal policy. 2) Commitment of local authorities to human rights and in particular ESCR. 	Promotion of the organization and exchange of information between local social networks or local networks that work on particular subject areas.
National	Better use of existing judicial and administrative mechanisms.	<ol style="list-style-type: none"> 1) Follow-up on the national budget and public spending. 2) Presentation and dissemination of alternative national reports (“shadow reports”). 	Promotion of the organization and exchange of information between national social networks or national networks that work on particular subject areas.
International	<ol style="list-style-type: none"> 1) Better use of regional and international systems for the protection of human rights. 2) Use of other mechanisms for the indirect protection of human rights (World Bank, International Monetary Fund, Inter-American Development Bank, World Trade Organization). 3) Strengthening regional and international human rights systems. 	<ol style="list-style-type: none"> 1) Lobbying before international organizations. 2) Presentation and dissemination of alternative national reports (“shadow reports”). 	<ol style="list-style-type: none"> 1) Promotion of the organization and exchange of information between international social networks and networks that work on particular subject areas. 2) Campaigns directed at international public opinion.

4. Women's Rights

Participants

Holly Bartling, Gaby Oré, María Eugenia Mijangos, Susana Chiarotti, Gilda Rivera, Lucero González, Lorena Fries, Evelyn Pinto, Valerie Miller, Rosa Mujica, Giulia Tamayo, Sofía Macher, Rocío Villanueva, Gilda Pacheco, Diana Miloslavich, Rikard Norgren, Fina Vázquez, Alex Wilde.

Organizations Represented

Washington Office on Latin America (USA), Ford Foundation (Chile), CALDH (Guatemala), Comité Latinoamericano de los Derechos de la Mujer (Argentina/Peru), Centro de Derechos de la Mujer (Honduras), Grupo de Información sobre la Reproducción Elegida (Mexico), Corporación de Desarrollo de la Mujer “La Morada” (Chile), CEZONTLE (Nicaragua), Institute for Development Research (USA), IPEDEHP (Peru), Coordinadora Nacional de Derechos Humanos (Peru), Defensoría del Pueblo (Peru), IIDH (Costa Rica), Flora Tristán (Peru), DIAKONIA (Sweden), Instituto de Defensa Legal (Peru), Comisión Mexicana de Defensa y Promoción de los Derechos Humanos.

The Women's Rights session provided human rights organizations and women's groups with an extremely important opportunity for the exchange of ideas and strategies on effectively advocating for women's rights. It is increasingly clear to human rights organizations that throughout the region women systematically suffer from particular forms of human rights violations – from higher levels of poverty to domestic and other gender-based violence. Laws that either reflect discriminatory purposes or have discriminatory effects on women are common throughout Latin America. Moreover, international and regional human rights instruments and institutions require expansion and re-interpretation to reflect the realities of how women's human rights are violated. Combating gender discrimination is a growing issue for the Latin American human rights movement, but human rights NGOs can still learn significant lessons from the experience of the women's movement in this area. Conversely, women's groups can usefully appropriate some of the discourse and methods of the human rights movement in furthering their work.

This session grappled with the question of how to construct a common agenda between feminist and human rights organizations, which would have been impossible until very recently. The women's movement in Latin America has a long history and a strong identity of its own, which has largely been separate from the human rights movement. This conference provided an important opportunity to bridge the gap in more than merely formalistic ways. A number, if not the majority, of the participants in this

session came from the women's movement. There was a sense of women's rights groups meeting face-to-face with the human rights movement, as well as promoting internal reflection among feminist organizations. A genuine desire to create a dialogue between women's groups and the rest of the human rights movement was notable in this workshop.

To frame the discussion, Susana Chiarotti and Giulia Tamayo (both of CLADEM) made presentations. Chiarotti spoke more generally about the challenges and successes that the women's movement has faced in integrating human rights work into its agenda and highlighted the ways in which the women's movement has succeeded in incorporating women's rights into the broader human rights framework. Tamayo discussed two particular cases of sexual violence and involuntary sterilization in the public health system that the regional office of CLADEM had brought in Peru, in collaboration with other human rights groups, such as CEJIL and APRODEH.

Much time was spent discussing the overall challenge of making violations of women's rights visible, not only in society but also within the human rights discourse. Consequently, the issue of consciousness-raising was a strong undercurrent throughout the workshop – consciousness-raising not only at the individual level of ensuring that

The discourse of human rights as it is presented today, and in spite of years of efforts for integration and expansion, seems to continue to ignore half of humanity: women. Women, for many years, had suffered the "invisibilization" and "naturalization" of the violations of their rights due to a neutral interpretation, in terms of gender, of their human rights. Decades of blindness to gender permitted and continue to permit these abuses to remain invisible.

Susana Chiarotti

women understand their rights but also with respect to the larger human rights movement. Chiarotti outlined five categories of strategies that the women's movement has developed for the "transformation, amplification and effective application of human rights." In the paradigm that Miller spoke about, women are not only claiming their place at the decision-making table, but human rights violations against women are being brought to light and made explicit as violations. Chiarotti concluded: "These strategies have contributed to making visible the

specific ways in which women's rights are violated. The paradigm of human rights and the interpretation of rights contained in international treaties has been expanded, even if only partially. Moreover, public opinion has begun to focus on violence against women and sexual and reproductive rights."

The first strategy Chiarotti outlined involves influencing human rights theory through activities aimed at expanding the paradigm of human rights. Chiarotti noted that a significant achievement in this process took place at the World Conference on Human Rights in Vienna in 1993. The action plan for that conference (the "Vienna Plan of

Action”) proclaims that the human rights of women and girls are an inalienable, integral and indivisible part of universal human rights. The Vienna Plan of Action recognizes that human rights are to be enjoyed in both the public and private spheres, and therefore they can be violated in both spheres. It expressly recognizes that violence against women – which usually occurs in the private sphere – is a violation of human rights. Chiarotti commented: “This was a revolutionary change because the human rights system is based on violations committed by the state. For the first time, acts of individuals, occurring in the private arena, can imply state responsibility.”

The group also discussed other examples of this process of re-conceptualizing human rights, such as the Convention of Belém do Pará which recognizes that individual parties in the private sector may also violate women’s rights. It is the most advanced regional convention of its kind. Chiarotti also mentioned the Declaration of Human Rights from a Gender Perspective, which CLADEM has endorsed since 1992.

A second strategy put forth by Chiarotti, and discussed by the group, involves strengthening existing instruments to guarantee human rights. For example, together with many other women’s groups, CLADEM has been endorsing and lobbying for the Optional Protocol to the Convention to Eliminate All Forms of Discrimination Against Women (the “Women’s Convention”), which would enable individual petitioners to present cases under the Women’s Convention. The ability to present individual complaints is a critical component in the strength of the instrument and the norms contained therein.

A third set of strategies relates to modifying structures of international human rights institutions and inter-governmental organizations to establish gender equity. Chiarotti and others noted and discussed why one of the most difficult structures in which to achieve integration and equity has been the Inter-American system: Both the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights are composed entirely of men.

The fourth group of strategies outlined by Chiarotti focuses on using the lens of gender to “re-read,” or reinterpret, existing procedures and instruments. The idea that Chiarotti described as still in an “embryonic stage,” is to expand the interpretation of the content of human rights treaties and to utilize already existing mechanisms to defend women’s rights. Again Chiarotti pointed out regional weakness in this area, noting that the Inter-American Commission on Human Rights has issued jurisprudence relating to gender in only five cases.

Finally, a fifth set of strategies involves monitoring compliance with international and national standards. In the international sphere, strategies include building solidarity networks, writing “shadow reports” and undertaking fact-finding investigations. With respect to national norms and legislation, CLADEM has tried to do both monitoring and litigation. For example, Chiarotti pointed out how in Argentina the *amparo* has been used by various women claiming their rights. In one case, a lawyer with a physical disability filed an *amparo* suit so that the federal court building would remove

architectural obstacles that made access difficult for her and thereby affected her right to work.³ In another case, a claim was made against a prestigious hospital for distributing a pamphlet that enumerated the conditions necessary to be an “Ideal Mother.” In a third case in Argentina, an *amparo* suit was filed against a provincial social service administration that gave less money to the women than to the men who were affiliated.

**Summary of Success Factors in Strategies Used By Women’s
Movement to Bring Attention to Violations of the Rights of Women**

1. DESIGN a good media campaign.
2. ORGANIZE a solid and broad framework of alliances.
3. UNDERSTAND and use the campaign’s leverage in the national and international political context.
4. DEFINE a common agenda clearly.
5. DEVELOP a thorough knowledge of the governmental or non-governmental sector that is the target of the demands, including its operating mechanisms, ideology and openings for negotiation.

The factors that had contributed to the successful use of these strategies echoed those mentioned in the other workshops, including the importance of understanding the context for the work, clearly defining a common agenda and the critical role of media outreach.

Some of this session was also spent discussing the historic lack of communication and understanding between organizations that work for women’s rights by the overall human rights community. Just as the richness in other sessions came from a willingness on the part of participants to share failures along with successes, this session was marked by sincere introspection on the part of both representatives of women’s groups and human rights NGOs. Participants candidly shared their thoughts on whether the women’s movement really ought to be integrated more into the larger human rights movement or whether in so doing the lens of gender would become diluted or distorted. In the end, most agreed that rather than a merging of identities, advancing a common agenda is most appropriate. As a result of this open airing of reflections, frustrations and aspirations, this conference provided a significant service to both communities, opening a real opportunity for future collaboration on better terms than in the past.

Some participants questioned, for example, whether despite the obvious achievements of the women’s movement through these strategies, the paradigm shift implied by the Vienna Plan of Action or the achievements in Belém do Pará have really

³ An *amparo* suit can be used to enjoin the state from committing a violation of someone’s rights, as in the case of an arbitrary detention, and can also be used to force the state to take action necessary to ensure equal enjoyment or fulfillment of rights, as in this case and some of the ESCR cases discussed in Part II B.3. above. For a definition of *amparo*, see note 2 above.

been incorporated into human rights practice. Many noted that the discourse of human rights continues to have the concept of women as a vulnerable group or sector, a concept that many believed had been overcome since Vienna. Participants stressed the point that women are not vulnerable *per se*; rather, it is living in a society that discriminates on the basis of gender that places women in a situation of vulnerability. Some suggested that in future conferences, “women’s rights” ought not be a separate subject but rather that “gender” issues should be incorporated throughout the program.

Moreover, it seemed to many in the group that the conceptual revolution that Vienna implied for the discourse of human rights – in the sense that Vienna proclaimed that human rights can be enjoyed in both the public and private arenas and therefore they can be violated in both – has not been generally taken up and translated into the practice of the human rights community. In fact, some participants feel that in human rights discourse, women’s rights are often simply absent or invisible, noting that this “gender blindness” persists in the human rights community despite the immense contribution that women have made throughout the region in the struggle for human rights.

The case study that Tamayo presented provided a heartening example of both ways in which sexual and reproductive rights have effectively been brought to light, and also how women’s rights groups can collaborate successfully with human rights groups. Tamayo discussed two investigations in Peru that the regional office of CLADEM began in 1996. Carried out in collaboration with the Center for Reproductive Law and Policy (CRLP), the first such investigation resulted in the report entitled Silence and Complicity: Violence Against Women in the Public Health Services of Peru (“Silence and Complicity”). The second, which began after some evidence was uncovered regarding the imposition of quotas for permanent methods of contraception to implement the government’s National Program of Reproductive Health and Family Planning 1996-2000, was entitled Nothing Personal: Use of Surgical Contraception in Peru (“Nothing Personal”). Both reports examined compliance by the Peruvian State with international standards of human rights, the fifth strategy that Chiarotti had outlined. Silence and Complicity covers cases of sexual violence against patients and cruel and inhumane treatment. Nothing Personal examines surgical contraception including cases of forced sterilization and other practices contrary to informed consent and the right to health. Both reports also discuss gender-based discrimination associated with race or ethnicity, socio-economic status and rural versus urban status.

The elements and stages of these CLADEM campaigns were similar to those highlighted in other sessions, such as CESR’s right to health campaign in Ecuador. First, there was a stage of investigation and documentation of violations. In the first case, the identification and documentation of patterns and cases of violations was based on the work of local groups. In the second investigation, Nothing Personal, media sources were added to the evidence uncovered by local NGOs.

Among the principal findings of the Nothing Personal report were numerical goals for surgical contraception and systematic supervision of the achievement of such goals by the central government. The numbers for the surgeries increased every year. These numerical goals were included as general goals of the National Plan on Reproductive Health and Family Planning 1996-2000. The program had an objective of 100 percent coverage of a “secure” method of contraception for patients entering the hospital for a birth or abortion. Contraception usage objectives were formulated exclusively for women. Quotas for the performance of surgical contraception were assigned to health institutions and personnel. In several locations, CLADEM found evidence of pressure, incentives and threats against health personnel for the performance of surgeries (e.g., offering money for each user, use of or threat of use of promotion or demotion in relation to compliance with quotas). Health establishments were being evaluated on the basis of productivity criteria rather than quality of care. The government was sponsoring festivals and fairs to promote and perform surgical contraception in a wide range of places.

The above findings were based on the policies and official documents of the Peruvian Ministry of Health and other authorities charged with implementing the National Reproductive Health and Family Planning Program 1996-2000. Other findings were based on the identification and documentation of cases of abuse. Some of the principal findings of this type involved forced sterilization, such as sterilization of women in the context of other procedures (e.g., post-birth, post-abortion), and sterilization of women through intimidation or deceit. The investigation also uncovered a series of other practices violating informed consent. Tamayo noted that in “the most serious cases we found conditioning of treatment, slanted and incomplete information, absence of any kind of guarantees in the process of decision making, ... and mistreatment of users if they refused.” Other practices were found to violate women’s right to health. Some of these included not carrying out exams or evaluations prior to performing surgery and not following up after surgery. Interventions were carried out without adequate equipment and infrastructure, and often surgeries were performed by inexpert or untrained personnel. Discriminatory, intimidating or humiliating treatment of patients was common.

Excerpts and summary of Giulia Tamayo’s presentation of findings from Nothing Personal: Use of Surgical Contraception in Peru

The second stage involved publicizing the findings. An international media campaign was launched at the same time as national strategies got underway in the women's movement, such as the National Campaign on the Rights of Public Health Service Users. Simultaneously, alliances were constructed and strategies for promoting human rights through women's organizations were developed. For example, one campaign was set up with the Broad Women's Movement, a citizen's initiative that had been calling for action and the organization of varied groups of women in Peru since 1996. In addition, efforts were made to form alliances within the government. As in the "In the Name of the Innocents" campaign, there was a strong relationship with the Human rights Ombudsman's Office to try to influence the government's response.

With both reports, strategies included seeking recourse in the international arena. "Shadow reports" were submitted to treaty-monitoring committees and information was presented to the Inter-American Commission on Human Rights during an *in situ* visit in November 1998. In 1998 CLADEM, in collaboration with CRLP, presented a petition to the Inter-American Commission for one of the cases involving violence against women. After the hearing in March 1999, the government of Peru officially opted for an amicable solution to the case, the first time in history it had done so. Significantly, another case has just been submitted jointly by CLADEM and APRODEH to the Inter-American Commission regarding one of the cases from Nothing Personal.

Summary of Elements/Stages of CLADEM Campaigns for Sexual and Reproductive Rights

1. FACT-FINDING/documentation (including clear definition of agenda and rights).
2. PUBLICIZING findings.
3. BUILDING alliances in civil society and within government.
4. PURSUING international recourses.
5. CONTINUING education and consciousness-raising.

The strategies carried out by CLADEM in these cases achieved significant successes which, as in the case of the CESR campaign in Ecuador, demonstrate the possibilities for a new area of work for human rights NGOs. CLADEM's experience also echoes lessons learned from other campaigns, such as the "In the Name of the Innocents" and *Viva Rio* campaigns. For example, all three cases emphasized the importance of incorporating diverse sectors, mobilizing public opinion and coupling denunciation with concrete, proactive proposals. In other respects, the successes are similar to those of the Ecuador ESCR campaign, in that the problems uncovered are now construed as rights issues both by the affected population and governmental actors. In yet other respects, CLADEM learned from the two experiences that focusing on one issue – as in the case of Nothing Personal – proved more effective. This approach was more effective in the communications campaign and with treaty-monitoring bodies than in providing an

analysis of a variety of issues, as was discussed in Silence and Complicity. Moreover, the success with one strategy in the political arena gives women's rights groups impetus to undertake others that may affect more directly the paradigm of human rights. For instance, Tamayo noted that "with the accumulated experience around sexual and reproductive rights, CLADEM has taken the decision to launch an initiative for an Inter-American Convention to promote and protect [sexual and reproductive] rights."

Out of the experiences of CLADEM and other groups, a discussion emerged about the importance of strategies with communications media at both the national and international levels, in order for them to take up the concerns of women with respect to matters of public debate and for them to become familiar with international human rights standards. Others mentioned the theme – also familiar from the other workshops – of fortifying social supports and fomenting citizen alliances to generate opportunities for concerted action and public oversight of programs.

There was also discussion about the need for women's groups to take advantage of supra-national mechanisms to protect the human rights of women (e.g., "shadow reports" to treaty-monitoring committees, presentation of petitions, submission of information to the Special Rapporteur on Violence Against Women). International frameworks can prove very useful in the defense of cases in national courts and administrative proceedings, as well as in political debates at the local and national levels. There was general agreement that more fact-finding investigations in women's rights should be undertaken and encouraged.

There was also recognition among participants that legal advances for women's rights must be translated into cultural change, and that this requires both training and media work. One of the weaknesses that participants saw in the past work of the women's movement was the gap between legal and political advocacy work at the local, national and international level. In this respect, the women's movement can join the human rights movement in developing strategies that encourage people at the community level to appropriate these ideas and to create institutions that provide legal counseling and information in the event of violations of women's rights.

As in other sessions, participants stressed that building alliances with women's groups at all levels should be a priority for the women's movement. Also, a number of times participants raised the issue of the representativeness of the women's movement and women's rights. They spoke of the need to incorporate into discussion and reflection, as well as in reports and other programs, the problems of vulnerable women in the region, such as indigenous, impoverished and displaced women, among others.

Throughout this session, a number of people stressed that the way we think about problems and issues affects what we do about them. Until the human rights movement can adopt an authentic gender perspective, it will not be able to take on the work of protecting women's rights in earnest. A gender perspective is one that enables human rights groups to perceive violations of women's rights – ranging from issues such as domestic violence to the disproportionately heavy impact of structural adjustment and

austerity programs on women. Participants emphasized that this is not a theoretical debate or position; the transformation of structures, models, and discourses that marginalize large sectors of the population, including women, must be part of the struggle for human rights.

**Potential Objectives for Women's Rights Campaigns Based
on
Actual Successes of CLADEM Campaigns for Sexual and
Reproductive Rights in Peru**

- 1. The problems uncovered become the subject of public concern.** *For example, forced sterilization entered the public policy arena and debate.*
- 2. There is an opportunity to disseminate human rights standards with respect to these issues.**
- 3. Diverse actors incorporate the language of human rights and make arguments using that discourse.** *Women's sexual and reproductive health were taken to be rights by different actors at all levels of society.*
- 4. The affected people present demands and denunciations.** *Some were presented in international instances as well.*
- 5. Educational and citizen actions are mobilized.** *For example, in this instance, this occurred with regard to the rights of users of the Peruvian public health system.*
- 6. Concrete proposals are made based on the fact-finding investigations.**
- 7. Treaty-monitoring committees issue comments and recommendations to the state.**
- 8. The government is held accountable before international organs and institutions.**
- 9. New alliances are formed and other alliances are strengthened with human rights organizations.** *For example, CLADEM collaborated with APRODEH and CEJIL, as well as with CRLP.*
- 10. The government formulates changes in policy and practice.** *In this case, although inadequate, changes in policy responded to demands made and are a step in the right direction.*

In the session where workshop rapporteurs reported back to the plenary, Chiarotti offered some observations about the implications of this view:

I don't believe that all of us have to work on the same subjects. I think we can continue in different sectors, but we must understand a systematic analysis of human rights and an overall analysis of the suffering and needs

and violations of the rights of all men and all women. I think that goes to the question of being able to construct a common agenda [between the human rights and the women's movement].

Given the complexities of the new agendas before the human rights movement, the need for such an overall analysis that goes beyond any particular campaign is acute indeed. The discussion in this session made it clear that women's groups can and are appropriating the tools, methods, and language of human rights, while at the same time seeking to transform them in order to increase their empowerment and insert gender into the human rights movement. Strategically, participants felt this was important to women because, in general, feminist discourse has been viewed as marginal. In other words, taking advantage of human rights language, which has already been legitimated, can greatly increase efficacy.

Summary of Challenges and Strategies for the Promotion and Protection of Women's Human Rights

1. UTILIZE international human rights mechanisms, by using the language of human rights and inserting human rights concepts and methods into the work of women's groups.
2. ADVANCE a common agenda between the women's movement and human rights NGOs.
3. GENERATE new legislation, reports and jurisprudence that reflect a holistic view of human rights discourse including economic, social, and cultural rights and integrate other perspectives into human rights discourse, such as that of gender, ethnicity and other inequalities.
4. CONTINUE to develop and expand the theoretical framework of human rights from a gender perspective.
5. BUILD alliances among women's groups at all levels – national, regional and international.
6. TRANSLATE legal advances for women's rights into cultural change through training and media work.
7. REDUCE the gap between legal and political advocacy work, and work with the support base at the community level through strategies that encourage people to appropriate these ideas and through mechanisms providing for information and legal advice.
8. MODIFY sexist or exclusionary structures of international human rights institutions by increasing the participation of feminist groups before and within distinct human rights institutions in the Inter-American and UN systems.
9. RE-INTERPRET procedures and content of existing human rights mechanisms and instruments from a gender perspective.

The discussion in this session contained a number of implications for the donor community, which can play an important and constructive role in bringing the women's movement and the human rights community together by providing spaces for dialogue and opportunities to work on a common agenda. For example, rather than merely setting up women's rights sections within NGOs (which may either duplicate work that is already being done by women's groups or which may not receive sustained institutional support from the organization), priority could be placed on fomenting collaborative projects between women's groups and human rights NGOs. Women's groups can learn the methods and language of human rights while human rights groups can absorb a gender perspective from the women's movement. The CLADEM campaigns illustrate the effectiveness of coupling traditional human rights fact-finding methods with expanding consciousness around sexual and reproductive rights.

PART III: EMERGING REFLECTIONS

The WOLA/IDL conference succeeded in fostering debate among leading human rights NGOs on the evolving challenges that they face on the eve of the 21st century. The intensive workshops allowed participants to develop and consolidate new advocacy strategies in the four key areas – judicial reform and access to justice; democratic policing for citizen security; economic, social, and cultural rights; and women’s rights. The discussion in the workshops provided for a frank exchange on both successful advocacy experiences and the difficulties encountered in implementing new mandates. The focus on strategies in each workshop led to discussions on a variety of different methodologies for addressing these new challenges at the local, national and international levels. Participants with diverse perspectives and experiences emerged from each strategy session with a clearer understanding of advocacy strategies that have been undertaken in these areas, what has worked and what has not and what might be tried in the future. Participants came away from the conference not only with a more solid foundation and creative ideas for advocacy work in their specific area of expertise, but also with strengthened ties to individuals from other NGOs engaged in similar efforts.

Perhaps the most striking reflection that emerged from the conference was that of a sense of identity as a community. The changing Latin American context for human rights work has affected human rights NGOs throughout the hemisphere in different ways. Yet, there was an unmistakable enthusiasm and sense of having found an important part of themselves in the mutual sharing of experiences and perceptions. As Alex Wilde (Ford Foundation) reflected in the closing plenary, “I see this event as confirming that we are a real community, a human rights community, and I feel really privileged to be a part of that community, with its marvelous work and commitment to carry out in practice some of the highest ideals of humanity.”

This sense of community was immediately evident in two unstructured sessions that took place during the conference, one discussing the current situation in Colombia and the other discussing President Fujimori’s recent withdrawal of Peru from the contentious jurisdiction of the Inter-American Court of Human Rights. In both sessions, there was not just a sense of solidarity, but a communal understanding that the problems affecting one country transcend its national NGOs and call for concerted responses from other Latin American human rights groups. A concrete illustration of such collective action occurred when, at the end of the conference, it was agreed that a consensus press statement would be sent to the Peruvian press expressing dismay at President Fujimori’s decision to withdraw Peru from the contentious jurisdiction of the Inter-American Court of Human Rights.

In the closing plenary, Carlos Basombrío devoted many of his remarks to the question of the identity of the human rights movement. Basombrío noted that he was choosing not to focus so much on the external contexts that condition the practice of human rights advocacy, but rather on the reactions of the human rights movement to

those external changes. Basombrío noted the various points of consensus revolving around the identity of the human rights movement as well as differences. With respect to the issues of consensus, Basombrío first pointed out that participant groups defined themselves as a set of organizations with a common cause and a history filled with both successes and difficulties. Second, he stated that everyone agreed that the present context is one of dizzying changes that places in question some of the elements of that identity that had been taken for granted. Third, Basombrío commented that everyone concurred that in order to advance the work of human rights, it is critical for the human rights movement to redefine its identity in light of these changes.

However, Basombrío also emphasized that there were other points around which no consensus had been achieved. Here he mentioned two concrete issues: differences in conceptions of how human rights NGOs should relate to other actors, and different conceptions about the role and capacity of human rights NGOs themselves. With respect to the relationship with other actors, Basombrío pointed out that there are divergent views on how NGOs should relate to victims of human rights violations and even more fundamentally, of how to define “victims” – which is especially true in the area of economic, social and cultural rights. There are differences of principle and strategy in terms of how human rights NGOs ought to relate to political parties and, although it was not debated fully at this conference, in some cases, to insurgent movements. Similarly, there are important differences of opinion about how human rights NGOs should collaborate with social movements, as well as under what circumstance they should collaborate and engage proactively with the state (*i.e.*, the tension between *denuncia* and *propuesta*).

The second issue where Basombrío detected differing views is the definition of what human rights NGOs want to – or what they are able to – do. He observed that it is clear that there is an irreversible tendency to expand on the arenas of activities and interest, but argued that this tendency raises the question of “what is the real capacity of human rights groups? What distinguishes the role of human rights NGOs from one that others could play?” In Abregu’s terms, what is the “value-added” of human rights NGOs? Basombrío put the extremes acutely:

[E]vidently there are two risks that I mention just as caricatures, but it may be worth doing so: the first is absolute indifference faced with any change and the insistence that we have to continue doing the same thing, and the other, which is also very dangerous, is to define ourselves as ‘Jacks of all Trades’ – as though we had the capacity to intervene in all fields, in every aspect, at any moment – because human rights are universal and indivisible.

Picking up on some of de la Jara’s opening remarks, Basombrío argued that in light of these risks, a careful balancing act is clearly necessary.

Coletta Youngers (WOLA) also spoke about the areas of consensus arrived at during the conference and the new spaces for action for human rights NGOs, which beg further elaboration and resolution. For example, Youngers posited that there was a level

of consensus that the issues facing the human rights movement today are not exclusively articulated from a human rights perspective (such as poverty and citizen security) and that therefore it is urgent to build alliances with other sectors of civil society. But she concurred with Basombrío, that the extent to which the mandate of human rights NGOs could or should be expanded is far from resolved. Strategy areas that Youngers singled out as having achieved some consensus include: mobilizing public opinion through the media; creating educational programs targeting both the government and the population; building and finding allies within the government; employing legal norms to promote change beyond the purely judicial realm; and finding ways to both denounce abuse and make proactive proposals simultaneously.

All of the workshops focused to one degree or another on the need to go from *denuncia* to *propuesta* and to build a new relationship with the state. In terms of challenges and obstacles to engagement, some participants noted a lack of bridges between the state and society. In many countries in the region there is not a culture of negotiation; the authoritarian nature of governments and the lack of political will limit the possibilities for discussion. In some areas, such as ESCR and citizen security in particular, the lack of access to statistics and other government-controlled information is a serious problem. In general, human rights NGOs face the dilemma of how to maintain an independent identity and integrity while dealing with the government, or, on the other hand, how to be careful not to marginalize themselves by refusing to deal with the government.

In terms of strategies, most agreed that it is important to open spaces of dialogue and interaction with the state, while being careful to maintain independence. In order to open such spaces, some suggested seeking out individuals within the government institutions as potential allies, as well as uniting actors from different public sectors to negotiate with the state. In some contexts, lobbying before the legislature could prove important, while in others a relationship and collaboration with the Human Rights Ombudsman's Office could be essential. Participants in a number of sessions emphasized the importance of NGOs learning how to use and adapt the language of public policy to advance human rights purposes.

Youngers emphasized the need for the human rights movement to relate not only to the state and other sectors of civil society, but also to promote the democratization of the human rights movement with respect to grassroots groups and to find new ways of approaching the gap between the more traditional political and legal work of human rights NGOs and work with the grassroots. Referring to statements made by another participant, Youngers said the goal is ultimately to have human rights defended by human beings and not just by NGOs. She also stated that there was a general consensus at the conference about the need to form and train new leaders within the human rights movement as part of the process of democratizing the movement to provide for greater participation of the public.

Ana María Sanjuan (*Centro para la Paz*) also referred to the participation of the public in her observations, but in a somewhat different light. Sanjuan referred to "low

intensity democracy” in Latin America, where the state has proven itself to be profoundly de-legitimized in its capacity to arbitrate justice or to redistribute income. Referring to the debates that had occurred during the session on Democratic Policing for Citizen Security, Sanjuan argued that the “public” in Latin American acts in the defense of its human rights in an erratic and disjointed manner. But, at the same time, remarkable successes have been achieved in terms of millions of people recognizing legal and political concepts of rights that had seemed distant to them previously. Sanjuan noted, as others had in earlier panels, that the challenges facing the human rights community today – including that of citizen security – are largely a result of those successes. She argued that in order to make the public understand a human rights perspective on a specific subject such as citizen security, there is an enormous need for education of the public about the universality of human rights. Without public understanding and support for the universal applicability of human rights, a “human rights perspective” on public security debates will remain marginalized.

Gilda Pacheco (Inter-American Institute of Human Rights), whose remarks focused on incorporating a gender perspective into the human rights movement, also took up this theme of the importance of the universality of human rights. She commented that this should be seen as the greatest weapon that movements for women’s rights and other struggles for social justice have in the fight against discrimination and subordination based on gender or any other characteristic. Pacheco stated: “The ethical, philosophical and legal justification of the human rights movement rests on the premise that we share a set of values that are articulated through rights which we consider to be of universal validity and applicability.” She added, “If we don’t assume that these rights constitute obligations that all states are obliged to respect, there would be no sense in denouncing violations, engaging in solidarity with victims, promoting new norms, or undertaking human rights education.” Yet, Pacheco emphasized that “universality” cannot simply be an empty concept which does not reflect the realities of concrete men and women. She argued that for the concept of “universality of human rights” to be meaningful, “this notion demands a level of relevance and an appropriation of rights, knowledge, and persuasion that many oppressed women and men do not have because the social reality denies it to them.” Thus, Pacheco concluded, reiterating many of the points that emerged in the session on Women’s Rights, the legitimacy of the human rights movement, in many ways, lies in translating the concept of universality into a practice of inclusiveness. Pacheco spoke of an imperative for the movement to understand, define and apply specific means by which the rights of women – or the rights of other overlooked groups – can be vindicated.

Other panelists also touched on the relationship between the legitimacy and efficacy of the human rights movement. Basombrío noted that it is a curious historical moment in that, on the one hand, since the advent of the so-called “new world order,” human rights – as a philosophy or a way of seeing the world – has ceased to be marginal or stigmatized and has become in a sense widely accepted, even “politically correct.” Basombrío noted that he was surprised to hear people from other parts of the world who alluded to the risks of human rights becoming an “official ideology,” adding that, “at least in Peru we long to have that type of problem.” On the other hand, this acceptance of

human rights as a discourse goes hand in hand with a situation in which fighting for human rights in practice is perhaps no more difficult than before, but certainly more complex. With both the threats and challenges more multi-faceted and less defined, it is not as easy for human rights NGOs to align themselves with “a side.” Therefore, it is more difficult for those same NGOs to base their legitimacy on certain positions or actions.

Echoing sentiments that had been expressed throughout the conference, Basombrío commented that especially in this new context, the legitimacy of human rights NGOs is intimately tied to their effectiveness. Basombrío argued that human rights NGOs have to be effective, but effective from an optic of human rights, and that kind of effectiveness has at least three components. First, Basombrío argued that it is critical for the human rights movement to maintain the radical critique of existing social reality that has distinguished it throughout its history. Simultaneously, the very complexity of the daunting problems that confront civil society today make it imperative that that radical critique be coupled with the ability to make concrete proposals and create alliances that offer solutions to people’s immediate problems. Otherwise, the radical critique loses much of its power for the people that human rights groups most want to reach. Second, the human rights community has to be willing to go against common sentiments sometimes, while trying to educate and change public opinion so as not to lose people along the way. And last, the human rights movement has to learn how to combine modes of intervention that address private actors as well as public ones and that address the local, national and international levels.

In beginning his remarks, Basombrío noted, “I am aware that none of the themes that I am going to lay out are new. In fact, I think that none of the issues we have confronted in this meeting are. Rather, they are part of ongoing debates that take form over time. This event is simply another step in that process.” Indeed, the conference is in no way an endpoint but another step in the process of building a truly “Latin American” human rights movement. Just as “universality” is a construct that the movement must strive to give meaning to in practice, so too is that identity as a unified regional movement also a construct. It is up to NGOs throughout the region to make it meaningful. This conference was an important step in that process of both profound introspection, on the one hand, and network building, on the other.

Basombrío noted in closing that the idea of one Latin American human rights movement cannot hide the fact that “we come from multiple organizations with many differences among us, and consequently all of these subjects touch us in different ways in accordance with our own experiences and definitions.” Yet, in keeping with the spirit of paradox that informed the conference, it is equally true that people were connected to each other in a way that they had not been before. As a result, there was a pervasive sense of recommitment and revitalization as the Latin American human rights community moves toward the 21st century.