

**Justice NOW! Ratify to
Protect all Human Rights**

CAMPAIGN FOR THE RATIFICATION AND IMPLEMENTATION
OF THE OPTIONAL PROTOCOL TO THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS



Optional Protocol to the International Covenant
on Economic, Social and Cultural Rights

A Toolkit for Action | Booklet 4

Tools to Lobby Your Country and
Advocate for the Ratification and
Implementation of the Optional Protocol

International NGO Coalition for the Optional
Protocol to the International Covenant on
Economic, Social and Cultural Rights

These booklets were prepared by the International NGO Coalition for the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (NGO Coalition). The NGO Coalition brings together individuals and organisations from around the world who share the common goal of promoting the ratification and implementation of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Optional Protocol or OP-ICESCR).

The Optional Protocol grants the Committee on Economic, Social and Cultural Rights (Committee or CESCR) the competence to receive and consider complaints against States Parties, when they violate the economic, social and cultural rights (ESCR) contained in the International Covenant on Economic, Social and Cultural Rights (Covenant or ICESCR). We hope these booklets provide information and materials that will facilitate international and national advocacy work.

This series has four booklets.

Booklet 1: *Refreshing Your Knowledge About the International Covenant on Economic, Social and Cultural Rights* discusses the Covenant whose obligations the Optional Protocol seeks to enforce. It explains ESCR, States' obligations under the Covenant, the role of the Committee and the challenges related to implementing and enforcing ESCR.

Booklet 2: *Overview: The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights* describes the procedures and mechanisms introduced by the Optional Protocol, the adoption and ratification process and the competence of the Committee to receive and consider complaints against States Parties.

Booklet 3: *Why Should States Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights?* outlines some of the key incentives for States to ratify and implement the Optional Protocol. It challenges the myths contesting the justiciability of ESCR and offers tools to advocate for ratification and domestic implementation of the Optional Protocol.

Booklet 4: *Tools to Lobby Your Country and Advocate for the Ratification and Implementation of the Optional Protocol* provides information, resources and templates to assist you in lobbying for the ratification and implementation of the Optional Protocol.

The NGO Coalition is led by a Steering Committee, currently comprised of representatives from the following organisations: Amnesty International (AI), Centre on Housing Rights and Evictions (COHRE), Community Law Centre, International Network for Economic, Social and Cultural Rights (ESCR-Net), FoodFirst Information and Action Network (FIAN), International Commission of Jurists (ICJ), International Federation for Human Rights (FIDH), International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific), Social Rights Advocacy Center (SRAC) and Inter-American Platform for Human Rights, Democracy and Development (PIDHDD). ESCR-Net coordinates the NGO Coalition's activity.



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BOOKLET 4:

TOOLS TO LOBBY YOUR COUNTRY AND ADVOCATE FOR THE RATIFICATION AND IMPLEMENTATION OF THE OPTIONAL PROTOCOL

Developing a strategy for ratification* and implementation of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Optional Protocol or OP-ICESCR) should be envisioned within a broader objective of realising economic, social and cultural rights (ESCR).

Drawing on previous experiences, comparative initiatives and lessons learned from human rights groups, the material provided in Booklet 4 includes information, practical ideas and templates for engaging with government officials and representatives, national human rights institutions, civil society and the media. It also outlines general principles, tools and mechanisms to assist you in undertaking a strategy for lobbying for the ratification and implementation of the OP-ICESCR. The resources provided in this guide need to be tailored to the preferred approach of your organisation and adapted to the unique circumstances and context of your country.

* While this booklet refers to ratification, it should be noted that accession is another means by which a State may become Party to the Optional Protocol. See Booklet 2, Section 3(B): *Information on the Ratification Process* for an explanation of the difference between ratification and accession.

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PART I: TOOLS TO LOBBY YOUR COUNTRY AND ADVOCATE FOR RATIFICATION

1. Developing a Ratification Strategy

A strategy for ratification of the OP-ICESCR is more likely to succeed in the long term if it is part of a larger strategy to achieve accountability for ESCR in your country.

While the initial steps may therefore focus on lobbying government, where your resources permit, it is important to educate the public, campaign and build capacity for civil society, grassroots groups and social movements to increase awareness of ESCR and methods for monitoring their implementation.

IN DESIGNING YOUR STRATEGY, YOU WILL NEED TO ANSWER THE FOLLOWING QUESTIONS:

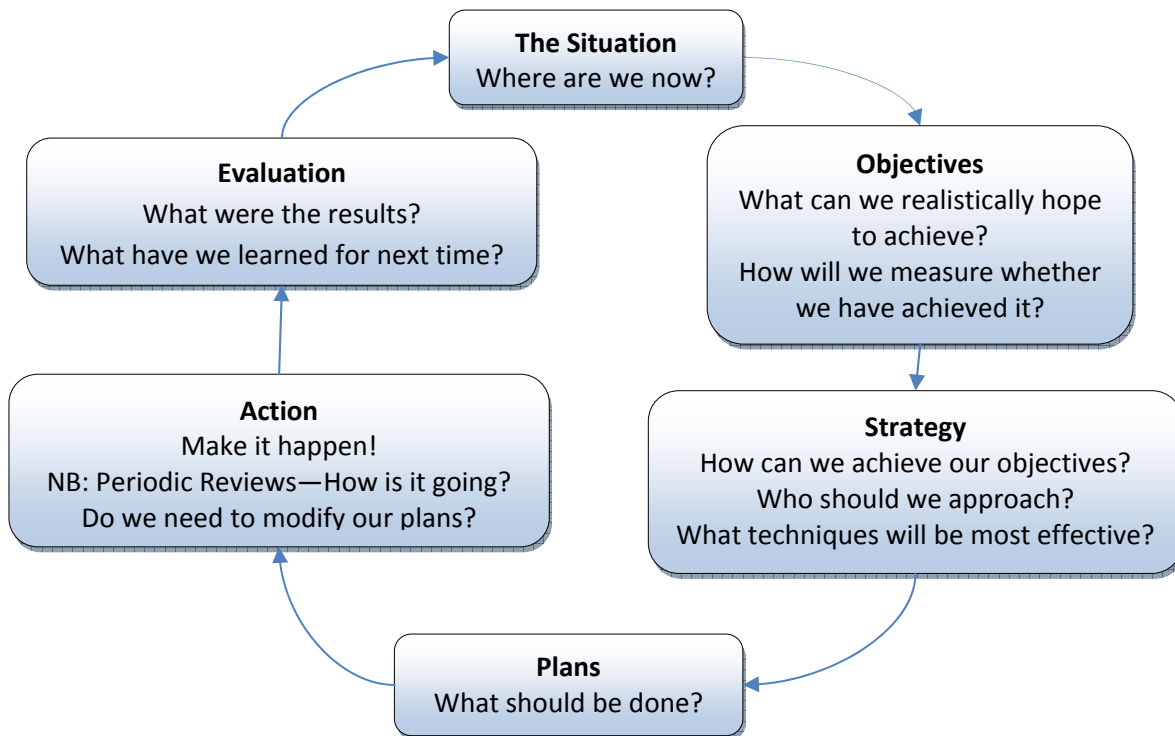
- ▷ What is your government's general approach towards economic, social and cultural rights?
- ▷ What is your government's position on the Optional Protocol? What was its position during the negotiations of the Optional Protocol?¹ Are there specific issues or key actors within your government that are obstacles to ratification?
- ▷ Has your country ratified other international human rights complaints mechanisms related to human rights (e.g., civil and political rights), labour or criminal law (in particular, the Rome Statute of the International Criminal Court)? What is its position on those treaties to which it has not become a Party? For some countries, the objection to the OP-ICESCR is related to a more general objection to international scrutiny rather than to the justiciability of economic, social and cultural rights. It may be helpful to learn about cases under such complaints mechanisms against your government and their outcomes.
- ▷ Are some or all economic, social and cultural rights legally enforceable under your country's Constitution and legislation? Have the courts ruled on these rights?
- ▷ Is there awareness and recognition of ESCR by the general public? Is the ratification campaign a good opportunity to advance awareness of ESCR in your country and to challenge sceptics? Or might it be better to secure ratification first and then campaign on specific ESCR issues?
- ▷ On the basis of the above, is ratification feasible in the short or medium term? If yes, you may wish to initially focus on lobbying and then focus on campaigning. If no, campaigning might be the first priority, followed by building a coalition for ratification.
- ▷ Is campaigning necessary to get the issue onto the government's agenda? If the government views ratification favourably, what type of campaign actions would be decisive?
- ▷ Are other organisations working specifically on ESCR interested in human rights advocacy in your country? Are they interested in working to ratify the Optional Protocol? In which strategies are they interested? Is there a possibility of working jointly to support ratification of the OP-ICESCR? You can find out which NGOs and individuals in your country are already members of the International NGO Coalition for the OP-ICESCR (NGO Coalition) by checking the NGO Coalition's website at: www.opicescr-coalition.org or by contacting: op-coalition@escr-net.org. In addition, international NGOs that are part of the NGO Coalition may have national chapters or partners in your country that are either working on the ratification of the OP-ICESCR or interested in doing so.² It would also be useful to identify civil society organisations and individuals in your country who are members of ESCR-Net (The International Network for Economic, Social and Cultural Rights). These members can be identified at: <http://www.escr-net.org/members>.³

1 You can obtain this information from the NGO Coalition [op-coalition@escr-net.org] and Booklet 2, Annex 1.

2 These international NGOs and networks include: Amnesty International (AI) [<http://www.amnesty.org/>], Centre on Housing Rights and Evictions (COHRE) [<http://www.cohre.org/>], FoodFirst Information and Action Network (FIAN) [<http://www.fian.org/>], International Commission of Jurists (ICJ) [<http://www.icj.org/>], International Federation for Human Rights (FIDH) [<http://www.fidh.org/-english->], International Women's Rights Action Watch Asia Pacific (IWRAP Asia Pacific) [<http://www.iwrap-ap.org/>] and Inter-American Platform for Human Rights, Democracy and Development (PIDHDD) [<http://www.pidhdd.org/>].

3 ESCR-Net is a collaborative initiative of groups and individuals from around the world working to secure economic and social justice through human rights. ESCR-Net is a member of the Steering Committee of the International NGO Coalition for the OP-ICESCR and coordinates the NGO Coalition's OP-IC-

- ▷ Creating and continually evaluating a ratification strategy is essential to making the best use of resources, giving coherence to your work and ensuring consistency. It enables you to identify successes and mistakes and to improve your ability to respond flexibly.



2. Developing a Ratification Campaign

Once you have decided to secure ratification, you must next determine how to achieve it.

- ▷ **Identify the institutions** within your government that influence or are responsible for formulating the government's position on the OP-ICESCR. This might be the Foreign Ministry, the Justice Ministry or other agencies. Certain ministries may be more receptive to ratification in particular contexts. For example, international reputation is more important for foreign affairs departments than for other departments. It is important to provide these institutions with arguments that can be used in inter-ministerial processes to discuss ratification.
- ▷ **Identify whom you need to contact** and in what level of government. Make a formal request for action to the relevant minister, a formal request for information from the head of the relevant civil service department or an informal request for information from a desk officer. Are there any formal mechanisms for human rights organisations to make submissions on policy?
- ▷ **Identify factors likely to influence** key government decision makers. This could include a face-to-face meeting, a public question asked by a member of the legislature, editorial and news coverage in the media, public pressure through letter-writing to key government decision makers (e.g., members of the legislature, ministers, government representatives) or advice from ministerial staff, independent experts, political party colleagues, particular committees or organisations.
- ▷ **Identify key national issues to which the ratification campaign should be linked.** In order to campaign for access to justice for ESCR, it is necessary to demonstrate how this can help address key ESCR concerns. It is essential to illustrate

the importance of ESCR in a way that can attract public and political support for the campaign. The key issue may be workers' rights in one country and conditions in informal settlements in another.

- ▷ **Identify constraints on timing.** Will key individuals or bodies need to be committed to a position by a certain date? Are there deadlines for public submissions before decisions are made? (For example, in 2011, nominations for candidates for the CESCR in the 2012 election will take place.) Is there an upcoming election with a possible change of government? What is the likely position of the new government? Do you stand a better chance with the current or incoming government?
- ▷ **Is the legislature actively involved** in debates regarding ratification?⁴ Does it normally ratify all treaties presented for its approval? Is there a particular committee or working group of special interest that would vet a ratification proposal? Are there any members of the legislature who have expressed an interest in ESCR or legal protection of human rights?
- ▷ **Identify individuals with influence** on government policy, e.g., judges and academics. Would they be interested in joining your campaign or in being involved in one of your initiatives? Would they be interested in writing a media piece or an academic article on the Optional Protocol?
- ▷ **Is there an independent human rights institution?** Has it been active on ESCR? If not, meet with the relevant officials to see what role they are able to play in pushing for ratification.
- ▷ **Identify the key organisations** working on gender equality, poverty reduction (nationally and internationally), labour rights, minority rights, migrants' rights and other social justice issues as well as legal aid organisations who have taken an interest in using ESCR to advance their objectives. Link up with them to increase your outreach and support base.
- ▷ If you are doing public campaigning, **identify news media** or individual journalists influential on human rights issues or economic and social issues.
- ▷ **Monitor changes and developments** that might influence the government's stance on specific issues.
- ▷ **Create and maintain a network of contacts**, as sources of information, partners in campaigning and targets for lobbying. Sources include other NGOs, the news media and reports by official or independent bodies that scrutinise government policy and action in your country.



Photo: Ana María Suárez Franco

4 For further information regarding ratification at the national level, see Booklet 2, Section 3(B): *Information on the Ratification Process*.

3. Lobbying Your Government

Lobbying shows the government that there is support for an OP-ICESCR. It gives you the opportunity to explain the benefits of ratifying the OP-ICESCR and to provide responses to the most common challenges. Lobbying can be directed at civil servants, ministers or influential politicians.

A. LETTERS TO GOVERNMENT

Normally, the first step to lobbying is a letter. Ask the government to ratify the Optional Protocol before commencing other campaign actions, given that it might actually do what you ask. A sample letter is shown at the end of this section. The following tips may be helpful.

Clear structure. Start your letter by briefly introducing yourself and other organisations with whom you are writing the letter, unless you are already known to the contact. Briefly explain the reason for the letter. State clearly the actions you are requesting. In addition to signature and ratification, you could call for intermediate steps – for example, organisation of a conference to consider the implication of ratification, development of a time-frame for ratification and other steps that are normally required for treaty ratification/accession in your country (e.g., consultation between concerned government departments). Show how the objective can be achieved and point out the benefit to the government. End by proposing the next steps that should be taken and announcing in advance if you will be telephoning.

Keep letters short and inviting. Most letters should be no more than one page and no more than one and a half pages in exceptional circumstances. Use short paragraphs and sentences, and include no more detail than necessary. You may find it useful to attach briefing materials to the letter – for example, by adapting relevant sections of this Advocacy Toolkit. Where used for this purpose, it is not necessary to cite the NGO Coalition.

Explain. Be careful not to assume knowledge. Use clear language and avoid jargon.

Give lists. Summarise, using bullet points to attract the eye.

Be polite. Always address the superior official and copy in the subordinate, never the other way around.

Emails. If you manage to enter into correspondence with a lobbying contact by email, you may find that contact becomes easier and less formal. Email contact should build confidence and regular dialogue.

Archive. Save copies of your letters and emails.

Responses. Share responses with other NGOs working on this issue in your country. It would be very helpful if you could also share these with the NGO Coalition (op-coalition@escr-net.org), so that this can assist efforts in other countries. NGO Coalition members may be able to assist, on request, with responses to statements issued by the government containing reasons for refusing to ratify the OP-ICESCR.

BOX 1: SAMPLE LETTER TO GOVERNMENT CALLING FOR RATIFICATION

1. If your government has signed the OP-ICESCR

[Include the subject / reference of the communication.]

Dear -----,

[Where necessary, introduce the organisation(s) sending the letter.]

We welcome and appreciate the government's signature of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. We look forward to prompt ratification and implementation of the Optional Protocol. We call on you to show leadership on this issue by ratifying the Optional Protocol as early as possible. Ratification will send an important signal to other States that it is now time to ensure access to remedies for victims of all forms of human rights violations. It will demonstrate a commitment to protecting human rights and eradicating poverty at home and internationally.

We would also like to encourage your government to ask other States to become Party to the Optional Protocol to ensure this treaty enters into force as soon as possible.

We urge you to ratify the Optional Protocol and to take all necessary steps to fully implement it without delay.

We urge you to make a declaration recognising the competence of the Committee on Economic, Social and Cultural Rights to undertake inquiry and interstate procedures under this Optional Protocol.

We hope to have the opportunity to continue working with your government in support of this mechanism. We would be pleased to provide further information and to meet to discuss this issue.

We thank you for your attention to this important matter. We look forward to hearing from you.

[You can also end by announcing in advance if you will be telephoning.]

Respectfully,

2. If your government has NOT signed the OP-ICESCR

[Include the subject / reference of the communication.]

Dear -----,

[Where necessary, introduce the organisation(s) sending the letter.]

At a time when the protection of economic, social and cultural rights has never been more important, we call on you to become Party to the new Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which was unanimously adopted by the General Assembly of the United Nations and opened for signature, ratification and accession on September 24, 2009.

The Optional Protocol creates a mechanism through which individuals and groups, whose rights – e.g., the rights to adequate housing, food, water, health, work, social security and education – have been violated and who have not been able to achieve justice in their own countries, can apply to the UN for assistance in finding a resolution.

We urge you to become Party to the Optional Protocol and to take all necessary steps to fully implement the Optional Protocol without delay.

We also urge you to make a declaration at the time of ratification or accession recognising the competence of the Committee on Economic, Social and Cultural Rights to undertake inquiry and inter-State procedures under this Optional Protocol.

We call on you to show leadership on this issue. By becoming Party to the Optional Protocol, you can demonstrate the government's commitment to protecting human rights and eradicating poverty at home and internationally. This would also send an important signal to other States that it is now time to ensure access to remedies for victims of all forms of human rights violations.

The Optional Protocol is a much needed and concrete step towards rectifying the gaps in international protection for victims of violations of economic, social and cultural rights. We hope that you will act to strengthen the recognition and implementation of economic, social and cultural rights and access to justice for all victims by becoming a Party to the Optional Protocol.

We hope to have the opportunity to continue working with your government in support of this mechanism. We would be pleased to provide further information and to meet to discuss this issue.

[You can end by announcing in advance if you will be telephoning.]

We thank you for your attention to this important matter. We look forward to hearing from you.

Respectfully,

Other elements that could be added to the letter depending on your country's position:

- Where the government had been supportive of the Optional Protocol during the treaty negotiations, include the following: "We appreciate that [name of country] supported the Optional Protocol during international negotiations at the United Nations, which enabled it to be adopted by consensus at the UN General Assembly." You can obtain information on your government's position during negotiations from the NGO Coalition (op-coalition@escr-net.org) and Booklet 2, Annex 1.
- Refer to the your government's date of signature.
- Introduce the letter with reference to any relevant upcoming dates – e.g., the December 10, 2008 anniversary of the adoption of the OP-ICESCR by the UN General Assembly or the September 24, 2009 anniversary of the opening for signature of the Optional Protocol.
- Refer to any relevant policy commitments announced by the government to which you can link the argument for ratification. For example, in Ireland, the national coalition promoting the OP-ICESCR referred to: "the government's stated strong commitment to global respect for human rights and its decision that Ireland seeks election to the UN Human Rights Council in 2012." National elections and election campaigns can be an important opportunity to address candidates, parties or newly elected legislatures, especially in countries where human rights action plans or strategies are developed.
- When stating that ratification will send a signal to other States, it might be helpful to refer to other States whom your government might be interested in influencing, which may include States in the same region, States in the "Global South", etc.

B. TELEPHONE CONTACTS

Initial/primary contact. Where possible, announce by letter an introductory telephone call, and research the name and position of the most relevant contact.

Support staff. Establish a polite and friendly relationship with the person who answers the phone. Remember her name and ask her for help. She may be the person who makes sure that your message reaches the relevant official or who finds time for your telephone call or meeting.

Prepare yourself. Make an outline of your intended call: the points you want to make, the intended flow of conversation, possible objections and how to overcome them. Have supporting material on hand.

Grab attention and be brief. You will have 45 seconds or so to catch the person's interest. Plan what you are going to say in that time. Be open and enthusiastic about what you want. Engage her by asking questions. Never overstay your welcome: keep your call to a maximum of 10 minutes. Make it a routine to ask very early in the conversation if the person has 10 minutes to discuss an important issue and, if not, when it would be a convenient time for you to call.

Take notes. Take notes of what is said, particularly any decisions and anything you have promised to do or send. Ask what is the best time to call if you need to call again.

Be warm and polite. Create a pleasant atmosphere. Be positive and avoid negative formulations. Make it easier to say "yes" than "no".

Difficult contacts. If possible, start by mentioning a recommendation from someone she knows. Be polite at all times, and show interest in the person's critique of your position. In fact, inviting a critique or suggestions on your response to a particular situation should be a part of most contacts with governments and NGOs. Such comments provide valuable information.

Close by summing up. Summarise what she will do, what you will do and the next steps.

Follow up. Send a letter/email of thanks, confirming the outcomes in writing.

C. MEETINGS

Holding a meeting is one of the central activities of all types of lobbying. A typical meeting with government representatives should last no more than one hour. To make this meeting effective, you need to prepare thoroughly, make sure your goals are clear throughout the meeting and not raise too many issues. Focus on the one or two most important messages you want to convey, especially if you have a short meeting.

Before the meeting

Research. Know your facts and as much background information as possible, and know your government's position in the past on similar treaties. If possible, find out about the people you are going to meet: Have they met your organisation before? If so, on which issue and with what outcomes? What is the scope of their authority and what action can they take in response to your requests? When meeting politicians, obtain their political biographies and find out if they have been involved in promoting issues that are relevant to ESCR, poverty reduction or human rights generally.

Delegates. The best number of delegates is usually two or three. Avoid going alone since it is important to show that several organisations are involved in the campaign. Decide who will take notes. Ensure that at least one person has expertise on the OP-ICESCR and on ESCR in order to answer any difficult questions.

Planning the meeting. Discuss and agree on your goals, the points that you must get across in the meeting and the specific requests that you will be making. Ensure that you ask the person with whom you are meeting to do something, even if it is only to speak to a colleague. Discuss and agree on your roles: Who will lead the delegation, who will introduce its members and the main subject of the meeting, what will each person say and who will sum up at the end?

Confidentiality. Think about the level of confidentiality you wish to establish. Promoting confidence in the person with whom you are meeting may yield useful information or insights.

Bring material. You may want to bring basic materials related to the OP-ICESCR to share in the meeting. You could use excerpts from this Advocacy Toolkit but keep the material brief (i.e., 2 pages where possible) and offer to follow up with more information if requested.

At the meeting

Keep a positive atmosphere. Listen actively, and show interest in and understanding of the other person's point of view.

Make the meeting effective. State your case precisely. Make your request explicit. Keep the discussion on track and assess progress. Summarise any agreements and next steps before leaving. Be prepared to ask for clarifications if something is unclear. If reference is made to specific documents or legislation, ask for copies. If a State is seriously considering ratification, request that it also make a declaration at the time of ratification recognising the competence of the CESCR to undertake inquiry and inter-State procedures under this Optional Protocol (in addition to the complaints procedure).⁵

Agree to follow up on questions. If you are not able to answer certain questions immediately, find out the answer after the meeting and make a follow-up call the next day. It is better to do this than provide incorrect information at the meeting. If the person with whom you met makes a commitment to obtain information or documentation, make sure to ask during the meeting whether you may follow up, for example, by a phone call the next day or week.

During the meeting, you might be asked about which other countries have signed, ratified or announced plans to ratify the OP-ICESCR. You can obtain updated information from the Office of the High Commissioner for Human Rights'⁶ website: <http://treaties.un.org>. Governments may wish to be informed by the experience of other countries that share similar characteristics to their own. Where there are countries in your region that have signed or ratified the OP-ICESCR and are influential in your country, you may wish to point this out.

Arguments. At the meeting, you may be able to make points that you would not normally include in a letter, such as the following:

- Ratifying States will show international leadership on human rights and poverty reduction, thereby improving their image on an issue of concern internationally and to their citizens.
- Decision makers, who are visibly associated with the OP-ICESCR, will be seen as concerned about the needs of disadvantaged groups and improve their own image.
- To ministries concerned with public and social services, the OP-ICESCR will reinforce the legal nature of ESCR, thereby providing them with a strong argument to request increased resources from finance ministries for the performance of their mission.

⁵ See Booklet 2, Section 2: *What is Introduced by the OP-ICESCR* for an explanation of the various procedures under the Optional Protocol.

⁶ For the Office of the High Commissioner for Human Rights, see www.ohchr.org.

After the meeting

Follow-up. After the meeting, the delegates should agree on who will be responsible for following up. Remember to send a letter thanking the person for the meeting, reiterating your key message(s) and confirming any agreements reached. For future reference, make a written report of the meeting and share it with other NGOs in your country working on the issue. In order to build a collaborative relationship and strategy, we request that you also share this with the NGO Coalition (op-coalition@escr-net.org).

In addition to requesting meetings, it may be useful to identify and participate in national and international meetings on ESCR or issues related to ESCR (e.g., development, poverty eradication, social exclusion or other specific rights) where NGOs can raise awareness about the Optional Protocol, particularly where government representatives are attending and can be lobbied.

D. EXPERT SEMINARS

After initial lobbying has been carried out, it may be useful to organise an expert seminar with the involvement of decision makers to discuss the OP-ICESCR. Holding a seminar might be one of the agreements made in your meetings with government.

Discussion seminars would allow the government to fully consider the implications of ratifying the OP-ICESCR and provide an opportunity for NGOs and academics to challenge counter-arguments. You should invite relevant politicians, influential members of the legislature, bureaucrats, supportive members of the judiciary and legal profession, academics and NGOs. It is critical to ensure the participation of experts who can speak on the issues related to the adjudication of ESCR and the experiences of communications (i.e., complaints) to other treaty monitoring bodies. Such experts could include academics, litigators, members of international human rights treaty bodies and government representatives of other influential countries, which share similar characteristics to your country (in particular, those in the same region) and have already ratified the OP-ICESCR.

4. Building a National Coalition

A treaty ratification campaign is well suited for the formation of a wide coalition involving a broad range of actors since the campaign objective is quite clear and does not require extensive negotiations. Experience from other treaty ratification campaigns shows that forming a national coalition around general principles – allowing individual members to take more specific positions – tends to be preferable to attempting to establish a highly formalised coalition. A formalised coalition requires significant investment in terms of time, increases the risk of conflict and normally involves fewer members than an informal coalition. However, circumstances in particular countries may be more conducive towards forming a formal coalition. For example, an existing formal coalition on ESCR or on human rights more generally could make the OP-ICESCR one of its priorities, thereby avoiding the need to establish a new entity. A formal coalition with barriers to entry may be necessary where there is a risk that government-sponsored and other NGOs seek to join and undermine the coalition.

In establishing a national NGO coalition, your first step would ideally be to partner with organisations and individuals in your country that have already joined the International NGO Coalition for the OP-ICESCR or ESCR-Net (see Section 1 above on how to identify these groups). Other human rights groups in your country may also be interested in joining. However, it is important not to limit the coalition to human rights NGOs. A range of other actors could be invited to join in lobbying efforts and discussions with the government as well as public campaigning where appropriate.

- Influential lawyers (e.g., office holders in law societies) known to be favourable towards “judicial activist” approaches.
- National human rights institutions (e.g., national human rights commissions and other specialised human rights commissions).
- Women’s groups, especially those that have participated in efforts to ratify the OP-CEDAW. Such groups may be interested in the OP-ICESCR as the ICESCR addresses several ESCR that are not addressed within CEDAW.
- Trade unions can be powerful allies. Ratification of the OP-ICESCR is important for trade unions as it provides an important

avenue to defend the rights to work, to just and favourable conditions of work and for trade unions to function freely. In addition, the welfare of their members rests on the other rights contained in the ICESCR.

- NGOs focused on development and poverty eradication. Such groups are increasingly focusing on human rights and may be willing to promote accountability for ESCR as a tool for poverty reduction. This has already occurred in some contexts. For example, in Ireland, groups advocating for the ratification of the OP-ICESCR include Action Aid, Christian Aid Plan and World Vision.
- Other influential public figures (e.g., political and religious leaders, academics and civil society) who may be able to lobby government contacts or who could influence the debate through public statements.
- Members of the legislature, including opposition members. In most countries, it would be inappropriate for such actors to join a civil society coalition. However, legislators supporting ratification can be in frequent contact with civil society in order to share information and strategies.

5. Peer-Pressure: Lobbying States Parties to Promote Ratification

States that have signed or ratified the OP-ICESCR (or who are in the process of doing so) could be encouraged to play a key role in convincing other States to ratify with the object of achieving universal ratification. They could be asked to become “Friends of the Protocol”⁷ and advised to carry out the following actions:

- Make their decision to ratify known, for example, by announcing this measure at international meetings, carrying out a media conference to announce ratification and sending communications to other States.
- Propose language in international and regional declarations, as well as in other fora (e.g., Africa-Latin America Summits), encouraging all States to consider ratifying the OP-ICESCR.
- In the context of the Universal Periodic Review,⁸ make recommendations to other States to ratify the OP-ICESCR.
- Raise the issue of ratification in other inter-State dialogues on human rights.
- Offer technical assistance to other States or share information with them on ratification of the OP-ICESCR.

6. Public Campaigning and Media Work

A. BEFORE RATIFICATION

Public campaigns and media work may be required in order to complement lobbying if the government appears to be resisting ratification. It may even be necessary to get the issue on the agenda depending on how responsive the government is to public campaigning. In most countries, there will be many actors opposed to the legal recognition of ESCR, and it is therefore preferable to engage in public debates on this issue after ratification. However, where the government resists or delays ratification, these debates will need to occur right away.

If you decide that public campaigning and media work is required, consider the following steps:

- ▷ **Issue a press release** announcing that a wide group of civil society groups are calling on the government to ratify the OP-ICESCR. This should be provided to print and broadcast media.

⁷ This term was used by NGOs to acknowledge and formalise partnerships with States championing ratification of the Second Optional Protocol to the ICCPR.

⁸ The Universal Periodic Review (UPR) was created through the UN General Assembly on March 15, 2006 by Resolution 60/251 [<http://www2.ohchr.org/english/bodies/hrcouncil/>], which established the Human Rights Council (the body that replaced the UN Human Rights Commission). The UPR is a new process, which involves a review of the human rights records of all 192 UN Member States once every four years. The UPR is a State-driven process, which provides the opportunity for each State to declare what actions it has taken to improve its human rights situation and to fulfil its human rights obligations. For more information about the mechanism, you can access the UN website at: <http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx> or visit: <http://www.upr-info.org/>.

- ▷ **Hold a press conference** with well-known organisations or individuals as speakers are more likely secure wide coverage.
- ▷ **Prepare short radio and video spots** that can accompany your press release. Link these to local concerns with statements from people from communities facing violations of ESCR. These can be shared with media outlets and put on your website and on YouTube.
- ▷ **Hold public meetings** to promote the OP-ICESCR – and the broader agenda of accountability for ESCR.
- ▷ **Engage the public** in a petition or letter-writing campaign directed at the government. Box 5 below provides an example of a petition. However, this action should only be taken if significant resources and capacity are available. A campaign that results in only 50 letters to government might undermine the objective. It is therefore important to ensure outreach on a large scale, for example, through web actions, asking organisations to call on their members and using social media.
- ▷ **Prepare opinion editorials** to run in a national newspaper. You should contact the editor or journalists from that newspaper to propose such an item. Where possible, an influential person could be asked to issue the opinion editorial under his or her name. Samples of opinion editorials are provided in Box 3 and 4 below. If this is not possible, you could write letters to the editor. These get less attention than opinion pieces and normally have to be kept to less than 100 words.
- ▷ **Highlight the issue of gaps in remedies** available to victims of ESCR violations (e.g., lack of enforceability of ESCR in national law, lack of effective remedies, obstacles to access justice and/or lack of enforcement of decisions by courts). Call for any gaps to be filled domestically and through ratification of the OP-ICESCR as a tool to help address the accountability deficit.
- ▷ **Prepare short educational brochures and flyers** on the OP-ICESCR that can be disseminated through civil society networks and radio. See Box 6 below for an example used by Amnesty International Ireland. In appropriate situations, you can utilise the animation produced by Amnesty International on the OP-ICESCR. This two-minute video shows how a community that has faced forced evictions, and cannot secure justice locally, could access justice at the international level. It can be accessed at www.amnesty.org/escr. Further examples are available at: www.escr-net.org (click on “Our Work” and then “Optional Protocol to the ICESCR”).
- ▷ **Carry out public actions** – e.g., demonstrations and street theatre.
- ▷ **Include a short sentence calling for the ratification** of the OP-ICESCR in all your ESCR-related public documents.



Photo: Suad Elías

BOX 2: SAMPLE MEDIA RELEASE CALLING ON A GOVERNMENT TO RATIFY

[INSERT NUMBER] NGOS CALL ON GOVERNMENT TO RATIFY TREATY TO ENFORCE ECONOMIC, SOCIAL AND CULTURAL RIGHTS⁹

[Insert number] organisations have signed an open letter (attached) to the [head of government] calling on [country] to sign and ratify a landmark international human rights agreement.

[NGO spokesperson] said, “This agreement will help advance social and economic rights like housing, water, health and education – rights that the [name of population] people have consistently demanded from the government.”

Countries including [list 5 other countries that have signed the OP-ICESCR that would be of interest to your country] have signed a new protocol to the International Covenant on Economic, Social and Cultural Rights, to which [country] became Party [number of] years ago. The Optional Protocol will allow people to seek the assistance of the United Nations if their rights under the Covenant are violated.

Organisations who have signed the letter include [list about 5 organisations, each from a different background to show the diversity of those calling for signature] (A full list is at the end of the press release.).

[Spokesperson] goes on to call on the [head of government] to “show leadership on this issue; we urge the government to sign and ratify the Optional Protocol this month, thus making a public commitment to increase access to justice for those whose essential rights have been violated and whose human dignity has been ignored.”

[Spokesperson] said: “By ratifying the Optional Protocol, the government would show that it is willing to empower people living in poverty. It would send a signal to other countries in [sub-region] and [continent] that we can no longer be complacent about the marginalisation and neglect of those living in poverty.”

Background Note:

The [insert number] organisations that have signed the letter are: [list in alphabetical order.]

The International Covenant on Economic, Social and Cultural Rights was ratified by [country] in [year] thereby making it legally binding on the country. It provides for rights, including the rights to water, food, work, housing, education, health and an adequate standard of living.

The Optional Protocol will give people the right, if they cannot secure justice in their country, to have a violation of these rights investigated by an independent, international panel of experts.

The States that have signed the Optional Protocol include: [list countries]. Those that have ratified it include: [list countries].

The letter to the government is attached to this press release. (See *Sample Letter to Government Calling for Ratification* in Box 1 above. Note that the letter should be sent to the government prior to the media release. Normally, to preserve the dialogue with the government, it would be advisable to give it reasonable notice of the letter.)

Points that could be added and alternative options:

- Depending on your strategy, you may wish for the press release to take a soft approach encouraging ratification or a more aggressive approach criticising the government’s failure to sign. The above media release takes a soft approach. A press release by Irish NGOs took a more aggressive approach, referring to the government’s stated decision not to sign at this time and included the following: “In the letter, the organisations express their ‘extreme disappointment’ at the decision of the Irish government not to sign up ‘at a time when the protection of economic and social rights has never been more important.’”
- Include contact numbers and email addresses for two or three spokespersons who will be available for interviews in the days surrounding the press release.

In engaging with the public, it is particularly relevant to ensure that the importance of the OP-ICESCR is understood. In public

⁹ This press release is adapted from an Amnesty International – Ireland press release on behalf of 25 Irish NGOs entitled, *25 NGOs Criticize Taoiseach for Failure to Sign New Human Rights Treaty*.

campaigning, it remains necessary to show how international accountability can help address local issues relating to ESCR. Public campaigns should explain that ratification is part of a broader effort to ensure the accountability of the government to its people. It may be useful to document and share success stories (particularly successes from the same region), where use of a national or regional complaints mechanism on ESCR has remedied a violation.

To win over non-legal audiences, these should show how the use of the accountability mechanism has demonstrably improved the lives of particular communities and/or strengthened a country's overall poverty-reduction effort.¹⁰

BOX 3: SAMPLE OPINION EDITORIAL TO BE PUBLISHED IN A BROADSHEET NEWS OUTLET THAT USES A COMPLEX STYLE OF WRITING

TIME FOR ACCESS TO JUSTICE FOR ALL HUMAN RIGHTS

Imagine your home is demolished without warning and your government does nothing to protect you or to ensure that you have housing. You cannot afford to buy enough food for your family, but your government will not help even though it has the resources to do so.

For too many people, economic, social and cultural rights are denied on a daily basis. Vast numbers are denied their rights to adequate housing, food, water, sanitation, health, work, education or social security. Many instances of discrimination, exclusion and protracted neglect of disadvantaged groups have been treated as unfortunate but essentially unchangeable situations rather than as human rights violations. Governments have too often only paid lip service to their obligations under international law to ensure economic, social and cultural rights for all. Most people denied these rights are unable to seek justice and have to rely on the goodwill of the government.

In December 2008, the General Assembly of the United Nations agreed on an Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The Optional Protocol will allow individuals and groups the ability to seek justice from the United Nations should their government violate their economic, social or cultural rights and they cannot obtain a remedy locally.

For the people of [country] to have access to this mechanism, it must formally become a Party to the Optional Protocol, thereby making it legally binding. However, the government has not yet become Party to the Optional Protocol.

The Optional Protocol does not create new rights, but rather it provides a way for existing rights to be enforced. [Country] became Party to the International Covenant on Economic, Social and Cultural Rights [inset number] years ago. The Covenant requires that [country] refrain from interfering with anyone's economic, social and cultural rights. For example, the government must not forcibly evict people from their homes without complying with international standards, including due process and adequate alternative housing or compensation. It requires the government to regulate private businesses – for example, by ensuring that employers provide fair conditions of work for employees. It also requires the government to put in place regulations and programmes so that everyone is able to access the rights to education, food, water, housing and health. Further, the Covenant requires that the government take steps to achieve these rights to the greatest extent permitted by its available resources [from domestic sources and international assistance].¹¹

¹⁰ See the case studies on the impact of right to food litigation in India and on the right to health in South Africa in Amnesty International, *From Promises to Delivery: Putting Human Rights into the Millennium Development Goals* (2010), p. 13 [<http://www.amnesty.org/en/demand-dignity>] and in COHRE, *Litigating Economic, Social and Cultural Rights: Achievements, Challenges and Strategies*, (2003) [<http://www.cohre.org>]. See also ESCR-Net's case-law database, which provides ESCR-related pleadings, commentary, outcomes and decisions from a range of countries, legal traditions and languages (Spanish and English), available at: <http://www.escr-net.org/caselaw/>.

¹¹ Delete bracket in countries that do not receive significant amounts of aid.

However, in [country], economic, social and cultural rights are not enforceable under national law, and the courts do not provide justice for violations of economic, social and cultural rights.¹²

The Optional Protocol will invigorate the Covenant. It will provide an opportunity for people to claim their rights in front of an independent, international panel of experts who would determine whether their rights had been violated. This mechanism will not solve the human rights problems in [country] on its own, but it will help the government identify gaps in the protection of economic, social and cultural rights in the country. It will create an incentive for government officials to listen to people living in poverty and to ensure that no groups are left out from efforts at social and economic development.

[Insert number of countries or list them] have become Party to the Optional Protocol. [Insert number] countries, including [list 5 countries of interest]¹³ have already signed the Optional Protocol – thereby indicating their intention to ratify it.

[Country] has already ratified complaints mechanisms under the [include any other Optional Protocols ratified, if any] to allow for complaints [about violations of civil and political rights, to prevent torture, to ensure the rights of people with disabilities, to address discrimination against women and discrimination on racial grounds]. [If applicable: [Country] is also Party to the International Criminal Court, which provides for international investigations of crimes against humanity, war crimes and genocide.] To be consistent, it is essential that [country] also permit complaints in relation to economic, social and cultural rights.

The government has consistently stated its commitment to reducing poverty [and meeting the Millennium Development Goals].¹⁴ Human rights – so far seen as a mere add-on – must become central to efforts to achieve the Millennium Development Goals. By becoming a Party to the Optional Protocol, the government will show that it is willing to empower people living in poverty so that they can hold governments accountable.

It will send a signal to other countries in [sub-region] and globally that we can no longer be complacent about the marginalisation and neglect of those living in poverty.

If the government wants to ensure access to justice for all human rights and reduce poverty – and to show that it is serious about doing so, it should prove it by becoming a Party to the Optional Protocol without delay.

Points that could be added to the opinion editorial:

- The above opinion editorial will be stronger if you can customize it to your country context. When giving examples of types of violations, give those that are common in your country. Refer to actual violations if you have information on this.
- If you are aiming for a tabloid news outlet that uses a simple style of communication, the style used in Box 4 is more appropriate. You also would need to customise this opinion editorial to the country context (see Box 4 for one example of how this might be done).
- The above editorial focuses mainly on the domestic implications of ratifying the Optional Protocol. In a country that provides a significant amount of foreign aid, you could argue that ratification will allow the government to call for accountability for economic, social and cultural rights externally, thus enhancing the country's international development objectives. (The next box, Box 4, takes this approach.)
- Where countries have a high degree of social protection (most economically developed countries), you could argue that in an age of globalisation where social protections are under threat, it is important to try to universalise the social protections enjoyed in the country. Failure to ratify the OP-ICESCR – and to thereby encourage others to do so – would be myopic.

¹² Change as appropriate where ESCR are justiciable in the country. For example, you could indicate gaps where justice is provided for only some economic, social and cultural rights. You could also indicate where these rights are justiciable, but the courts refrain from providing remedies for systematic violations or the government does not implement judgments adequately. A version of this op-ed by Salil Shetty was printed in the Daily Star in Bangladesh. It stated: “Bangladesh's courts have in some cases upheld economic, social and cultural rights, for example, by [ruling] that forced evictions without alternative accommodation are illegal. These are important decisions. They need to be implemented – at present, too often, they are not.”

¹³ It may be useful to state that some of the signatory countries have a similar or lower average national income per person than the country in question. You can obtain figures for average Gross Domestic Product per person at: <http://hdrstats.undp.org/en/indicators/91.html>. This website gives a sense of the financial resources available to a country.

¹⁴ Delete square brackets where this is not the case.

- Refer to any example of demands from the public for their ESCR. For example, an opinion editorial in the East African newspaper during the negotiations of the OP-ICESCR stated, “In the constitutional review process, Kenyans clearly demanded their right to be free of poverty. The upcoming decision will be another opportunity for the new government to act on these wishes.”

If the opinion editorial will run close to September 24th, refer to the anniversary of the Optional Protocol’s opening for signature. If it runs close to December 10th, refer to the anniversary of the Optional Protocol’s adoption by the General Assembly.

BOX 4: EXTRACTS FROM AN OPINION EDITORIAL CUSTOMISED TO DEBATES IN A PARTICULAR COUNTRY, AIMED AT A NEWS OUTLET THAT USES A POPULAR STYLE, FOCUSED ON INTERNATIONAL DEVELOPMENT ISSUES - (IRELAND: SEPTEMBER 2009)

At the end of this month, countries from around the world will gather in New York to sign a new international agreement strengthening human rights protections for every single person on this planet.

We won’t be there.

Spain will be. So will Belgium and Argentina, Finland, Guatemala and the Netherlands, with more countries confirming every day.

But Ireland has no plans to attend, no intention to sign a new protocol to the International Covenant on Economic, Social and Cultural Rights, which we ratified 20 years ago. ...

The traditional suspicion of successive Irish governments towards economic and social rights means we have not decided to sign it. We’re going to “wait and see.” It’s not clear why. ...

This is not about asking for more money from the Irish government. We’re asking the government to ratify this Optional Protocol to put power in the hands of some of the poorest and most marginalised people in the world.

It’s about giving a man called Michael Nyangi who lives in Kibera, Kenya, the largest slum in the world with a population of over a million people, a way to hold his government to account.

It’s about a man using the name “Vireak” because he is scared of reprisals after he and his seven children were made homeless when the Cambodian army burnt his family and a hundred others out of their homes in the village of Mittapheap 4.

It’s about Lukas, a 14-year-old Slovakian boy who was placed in a school for children with intellectual disabilities because he is a Roma.

It’s hard for someone raising a family under a tarpaulin to take on his own government, to stand up for his rights and those of his community. This Optional Protocol would even it up a little. It would allow someone, anyone, whose right to housing or to health, or to any other social or economic right, was being violated by his own government to appeal to the United Nations.

...

But if Ireland, still one of the richest countries in the world, won’t sign, then why should any of the less developed countries? Why would those struggling in deepest poverty sign it?

It is strange that at a time when the Irish government is urging us to ratify the Lisbon Treaty, at least partly because of the added protections we will all receive from the Charter of Fundamental Rights, it is denying those protections to the people most in need of them.

Human rights are officially a central defining characteristic of our foreign policy. Ireland, and Minister Micheál Martin in particular, showed real leadership last year in successfully working for an international treaty to ban cluster bombs, knowing the devastation they cause. In Ireland, perhaps more than anywhere else in the developed world, our history shows us the

devastating effects of poverty, so why is this so different?

As the severe consequences of the government's aid cuts become apparent, we have a duty to explore other ways of assisting the developing world. Minister Peter Power observed recently that we need governments, NGOs and the UN to work together more effectively to find the solutions to the global problems we share.

This is one way to do it, and there is still time to change our position. But right now our government, far from showing leadership, isn't even planning to turn up.

Hans Zomer is the director of Dóchas, the umbrella group of Ireland's overseas development NGOs.

BOX 5: SAMPLE PETITION¹⁵

CALL ON [COUNTRY] TO RATIFY NEW ACCESS TO JUSTICE TREATY¹⁶

Imagine your home is demolished without warning and your government does nothing to protect you or to ensure that you have housing. You cannot afford to buy enough food for your family, but your government won't help even though it has the resources to do so.

Picture being denied medical care to deliver your baby because you cannot pay the bill, or that a company has polluted your water supply and made it unsafe to drink, but there's nothing you can do.

For too many people, the rights to adequate housing, food, water, sanitation, health, work and education are denied on a daily basis. Governments have too often only paid lip service to their obligations under international law to ensure economic, social and cultural rights for all.

All governments have committed to reducing poverty and meeting the UN Millennium Development Goals. Yet, people living in poverty are often denied their rights and have no real opportunity to hold governments accountable.

The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) creates a new international mechanism that will enable people whose rights have been denied – and do not have a remedy in their own country – to seek justice through the UN. In order for people to have access to this mechanism, their government must become Party to the Optional Protocol.

Tell your government that if it really wants to ensure access to justice for all human rights and address the causes of poverty, homelessness and hunger, it should prove it by ratifying the Optional Protocol.

[Name of organisation(s)] is part of the International NGO Coalition for the OP-ICESCR, which is calling on all governments worldwide to ratify the Optional Protocol.

Sign the Petition:

Read, sign and send the appeal below to [the relevant head of government or minister] of [country].

BECOME PARTY TO THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Dear [Title of Target],

I urge you to ensure that victims of all human rights abuses are provided with access to effective remedies by becoming Party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

¹⁵ This is based on an Amnesty International postcard campaign text.

¹⁶ An alternative title is: "Call on [Country] to Ratify New Treaty to Enforce Economic, Social and Cultural Rights."

By doing this, [country] will demonstrate a clear commitment to ensuring that all people, particularly those living in poverty, can access justice and hold governments accountable when their rights are denied. It will also strengthen the legal recognition and implementation of economic, social and cultural rights in [country] and around the world.

Yours sincerely,

BOX 6: SAMPLE PUBLIC CAMPAIGN MESSAGE¹⁷

IRELAND'S BEST KEPT SECRET: THE TREATY THEY DON'T WANT YOU TO KNOW ABOUT

Twenty years ago this week, Ireland ratified a legally binding international treaty guaranteeing you fundamental human rights.

But they don't want you to know about it.

These social and economic rights belong to us all, but successive governments have, for 20 years, failed to deliver on them.

Did you know the International Covenant on Economic, Social and Cultural Rights guarantees you the right to:

A Fair Wage	Article 7
Social Security	Article 9
Protection of the Family	Article 10
Housing	Article 11
An Adequate Standard of Living	Article 11
Water	Article 11
Health	Article 12
Education	Article 13

TAKE ACTION

A new international treaty would allow you to take the government to the United Nations if it was not doing everything it can to deliver these rights for you.

Ireland has not signed it.

Write to the Taoiseach [Irish Prime Minister] and demand your human rights.

¹⁷ This text was utilized by Amnesty International Ireland. The version here has been slightly adapted.

B. DURING THE RATIFICATION PROCESS

Public campaigning and media work are **essential** shortly before ratification occurs. Imminent ratification of the OP-ICESCR represents an important opportunity to emphasise to the public through the media:

- The legally binding nature of ESCR.

- The availability of this international mechanism for complaints and the corresponding need for the government to ensure compliance with the ICESCR.
- The need for compliance with CESCR decisions on individual communications (i.e., complaints) and its Concluding Observations in the periodic reporting process.
- The need for strengthened national legal protection of ESCR in order to ensure that remedies are available at both the national and international levels.
- The relevance of ESCR to key contemporary challenges in the country.
- The need for other countries in the region to ratify the OP-ICESCR. Human rights NGOs in the region should be contacted so that they can publicise this action in their own country. This is particularly important when the country ratifying the OP-ICESCR is the first country in the region to do so or is otherwise particularly influential.

Note that ratification occurs in several stages. In many countries, the decision by the legislature to ratify a treaty must be followed by a final signature by the President or Prime Minister before the instrument of ratification is deposited with the United Nations. The Optional Protocol is only legally binding when all stages have been completed. To add pressure on the government to ensure that the process of ratification is successfully completed, a media release may be appropriate once the legislature had voted to ratify. However, the media release should then make clear that the government still has to deposit the instrument with the UN.

BOX 7: SAMPLE MEDIA RELEASE WELCOMING A GOVERNMENT'S DECISION TO RATIFY¹⁸

EXAMPLETANIA FIRST IN EAST AFRICA TO RATIFY NEW UN MECHANISM TO ENFORCE ECONOMIC, SOCIAL AND CULTURAL RIGHTS

A coalition of 30 human rights and development groups has welcomed the government's decision to ratify a new UN mechanism that will provide access to justice for everyone whose economic, social and cultural rights are violated and who is denied an effective remedy locally.

Exampletania is the first country in East Africa to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural rights, which allows individuals and groups within the country to seek justice from the United Nations should these rights – which include the rights to adequate housing, food, water, health, work, social security and education – be violated by their government.

“Access to justice is an essential right for victims of all human rights violations,” said [name, position and contact]. “We encourage all members of the East African Community to follow Exampletania's positive example and ratify within the shortest possible time.”

The Optional Protocol will enable people denied their human rights to have their complaints heard in front of an independent, international panel of experts. The decisions made by this new mechanism are likely to influence decisions of national and regional courts around the world. [The Optional Protocol will be important in Exampletania because national laws do not provide for a remedy for several economic, social and cultural rights, including the rights to health, water, housing, food and education.]¹⁹

“The Optional Protocol will establish a vital tool for Exampletanians, in particular for those living in poverty, to hold their government accountable for their rights,” said [spokesperson]. “The government should also follow through on this commitment by ensuring that national mechanisms, e.g., the courts and the national human rights institution, are able to enforce economic, social and cultural rights.”

¹⁸ This is adapted from Amnesty International's press release welcoming the first ratification of the Optional Protocol.

¹⁹ This sentence should be revised in line with your research as to which rights are legally enforceable in national law or deleted if it is not possible to carry out this research.

The Optional Protocol was adopted by the UN General Assembly by consensus on December 10, 2008 and was opened for ratification on September 24, 2009. The complaints mechanism will become operational after 10 countries ratify the Optional Protocol.

In addition to Exampletania, [insert number] countries have ratified the Optional Protocol. [Insert number] countries have signed the Optional Protocol, indicating their intention to ratify, but ratification is necessary to make the Optional Protocol legally binding.

Notes to Editors

- The States that have signed the Optional Protocol include: [list countries]. Those that have ratified it include: [list countries].
- Economic, social and cultural rights have historically been neglected and given less emphasis than civil and political rights. At the Vienna World Conference on Human Rights, States agreed, “The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis.” The Optional Protocol is a tangible development towards this end.

7. Evaluation and Follow Up

Make sure to plan and evaluate lobbying from a long-term perspective. The most effective approaches to government lobbying often take place in an environment, where it is possible to establish positive long-term relationships with individuals and institutions, even where major disagreements persist.

- ▷ **Goals and Outcomes.** The evaluation of your actions will depend on the targets and objectives you set. Your planning and the actual results will not always match, but fine tuning will come with time, and evaluation can measure tangible outcomes.
- ▷ **Review and examine** which strategies, tools and initiatives you think were more successful and had a greater impact within your campaign.
- ▷ **Shifting and adjusting.** Numerous players and dynamics, e.g., a certain political or economic environment or influential actors, shape advocacy work. Although hard to predict, while evaluating your strategy, you may want to consider these factors and adjust and shift your strategy to fit the given environment.
- ▷ **Keep up the momentum** by following up with a letter or a phone call to your government contacts.
- ▷ **Make a note** to send further information. A small amount of information sent frequently is a good tactic.
- ▷ **Keep informed.** If your country has been hesitant or reluctant to ratify the OP-ICESCR, you may want to keep track of new States that have ratified it. It might be helpful to refer to other States that your government might be interested in following, which may include States in the same region, States in the “Global South”, etc.
- ▷ **Take advantage of relevant upcoming dates** to follow up or re-engage your government. For example, the December 10, 2008 anniversary of the adoption of the Optional Protocol by the UN General Assembly and the September 24, 2009 anniversary of its opening for signature.
- ▷ Develop contacts with other NGOs who may want to join you in future lobbying by sending joint letters or undertaking joint visits. It is always easier to agree to a joint statement if you already have established a relationship of trust and know each other’s mission.

PART II: FOLLOWING RATIFICATION: WHAT ELSE NEEDS TO BE DONE?

1. Election of ESCR Committee Members

The Committee on Economic, Social and Cultural Rights (Committee or CESCR) is the treaty body with the mandate to monitor the implementation of the ICESCR by States Parties. Once the OP-ICESCR comes into force, it will also have the mandate to receive and consider individual complaints involving issues related to ESCR in the context of its treaty, undertake inquiries into widespread violations or receive inter-State complaints.

The quality of individual members can have a significant impact on the overall quality and effectiveness of the Committee, as well as perceptions of its independence and expertise. Given the importance of the Committee's composition for the proper application of the Optional Protocol, the NGO Coalition has decided, in the framework of its campaign *JUSTICE NOW! RATIFY TO PROTECT ALL HUMAN RIGHTS!*, to target all countries (the 160 ICESCR member States and the 54 members of ECOSOC) to positively influence the nomination and voting process.

The Committee is composed of 18 experts, who are elected for a period of four years. Half of its membership is renewed every second year. Members can be re-elected once their term expires, and unlike treaty monitoring bodies established by other recently adopted international human rights treaties, there are no limits on the number of terms they can serve on the Committee. The Committee is elected by ECOSOC, a body of 54 States elected by the UN General Assembly.

Seats on the Committee are allocated on the basis of UN regional groupings, with fifteen seats equally distributed among the regional groups and the additional three seats allocated in accordance with the total number of States Parties per regional group. This means that at every election at least one member coming from each UN regional group must be elected.²⁰

A. The Election and Nomination Process

The election of new members to the Committee takes place by secret ballot and is scheduled to take place every second year during the first regular session of ECOSOC.²¹

The nomination process is open for three months (usually from October to January), and all States Parties to the ICESCR are invited to send nominations to the Committee's Secretariat. While there is nothing to prevent States Parties that already have a member sitting on the Committee from putting forward another candidate, it has not been the practice to have more than one national from a single member. States normally nominate their own nationals as candidates, but there is no bar preventing them from nominating members from other countries.

B. The First Election of the Committee After the Adoption of the OP-ICESCR

In April 2010, an election of the experts for the CESCR took place. The term of service of half of the Members of the Committee expired on December 31, 2010.²² An election for those seats took place at the end of April 2010 in New York with the newly elected members initiating their mandate in January 2011.

Thirteen States Parties to the ICESCR nominated new candidates for the Committee.

²⁰ Details of the exact distribution of the available seats among the regional groups are made available when the call for nominations is posted on the Office of the High Commissioner for Human Rights' (OHCHR) webpage on the CESCR: <http://www2.ohchr.org/english/bodies/cescr/index.htm>. You can also refer to Booklet 1 of this Toolkit for further information.

²¹ See the ECOSOC website for the full list of members and the expiration dates of membership at: www.un.org/ecosoc (click on "About" and "Members").

²² The members whose term expires are: Clement Atanga (Cameroon) elected in 1999, Virginia Bonoan-Dandan (Philippines) elected in 1990, Maria Virginia Bras Gomes (Portugal) elected in 2003, Chandrashekhar Dasgupta (India) elected in 2007, Azzouz Kerdoun (Algeria) elected in 2003, Yuri Kolosov (Russian Federation) elected in 2002, Jaime Marchan Romero (Ecuador) elected in 1987, Eibe Riedel (Germany) elected in 2003 and Alvaro Tirado Mejia (Colombia) elected in 2002.

Results:

Region	Names of Candidates (elected candidates in bold)	Votes
African States	Mr. Clement Atangana (Cameroon) Mr. Azzouz Kerdoun (Algeria) Mr. Marc Somda (Burkina Faso)	44 out of 53 votes 30 out of 53 votes 27 out of 53 votes
Asian States	Ms. Virginia Bonoan Dandan (Philippines) Mr. Chandrashekhara Dasgupta (India) Ms. Heisoo Shin (Republic of Korea) Mr. Dhari Rasheed Yassin (Iraq) Ms. Cong Jun (China)*	17 out of 52 votes 41 out of 52 votes 38 out of 52 votes 5 out of 52 votes by acclamation
Western Europe and Other States	Prof. Dr. Eibe Riedel (Germany) Ms. Maria Virginia Bras Gomes (Portugal)	by acclamation**
Latin America and the Caribbean States	Mr. Renato Zerbini Ribeiro Leão (Brazil) Mr. Alvaro Tirado-Mejia (Colombia) Mr. Jaime Marchan Romero (Ecuador)	by acclamation by acclamation by acclamation
Eastern Europe States	Mr. Abashidze Aslan Khuseinovich (Russian Federation)	by acclamation

* The previous member Daode Zhan (China) resigned on July 31, 2010. Cong Jun was elected by acclamation for a term beginning October 25, 2010 and expiring December 31, 2012 to replace Daode Zhan.

** Germany and Portugal, the two States from the “Western Europe and Other States” group nominating candidates for this election, came to an agreement. The candidate of Germany will resign her seat in two years time, at the end of 2012, and Portugal will stand for election to complete the term until it comes to an end on December 31, 2014.

For further information about the results of the election process, see:

<http://www.un.org/News/Press/docs/2010/ecosoc6419.doc.htm> and

<http://www2.ohchr.org/english/bodies/cescr/elections2010.htm>.



C. Why NGO Involvement Matters

Although international human rights treaties require members of the treaty bodies to be independent, some of the CESCR's members (although not the majority) hold executive positions in State government. ECOSOC Resolution 1985/17, which established the Committee, stipulates that it should be made up of "experts with recognised competence in the field of human rights, serving in their personal capacity, due consideration being given to equitable geographical distribution and to the representation of different forms of social and legal systems." However, some members have limited backgrounds or experience in ESCR-related fields, and there are only two women serving on the Committee.

Further, very few States Parties nominate candidates, leaving the election process at the international level almost uncontested. The secret-ballot elections often take place after trading votes and after regional groups have endorsed candidates, providing limited possibilities for competition. Since the process at the international level is so opaque, it is crucial that the process at the national level leads to the nomination of high-quality candidates.

Unfortunately, ECOSOC Resolution 1985/17 does not require that States Parties ensure an open and transparent process for the identification of possible candidates at the national level. While the selection process at the national level may not be a secret in most States, it is certainly not well known or publicised. This means that the pool of potential applicants is limited and civil society participation is very low. Such practices by States Parties have a negative impact on the overall quality, effectiveness, reputation and impact of the CESCR.

The NGO Coalition seeks to improve the nomination and election process. Our aim is for States Parties to the ICESCR to nominate at least one candidate and to establish an open and transparent process at the national and international levels, in order to identify and select qualified and capable candidates of the highest calibre, who are impartial and independent from government. The NGO Coalition also calls upon States to bear in mind the importance of ensuring gender balance in the composition of the Committee.

PLEASE NOTE: The NGO Coalition does not take a position for or against particular individuals nominated or elected to serve as members of the Committee.

The NGO Coalition considers it vital to target efforts at both the national and international levels to overcome these shortcomings. The NGO Coalition calls on its members and supporters to get involved in the election process by carrying out the recommended actions listed below.

BOX 8: AN EXAMPLE OF GOOD PRACTICE

A positive example of a transparent national nomination process is the 2006 UK selection process for candidates to the Subcommittee on Prevention of Torture under the Optional Protocol to the UN Convention against Torture. The UK undertook an open selection process. It placed advertisements in national newspapers asking for interested persons to apply for the UK candidacy. The government was mindful in the selection process of the specific expertise that such a member would require as well as the requirement for independence from any government position. Prospective candidates were interviewed, and a candidate meeting the strict criteria was selected.

D. Recommended Actions

Civil society organisations in States that are Parties to the ICESCR and do not currently have a member sitting on the Committee are asked to carry out the following recommended actions:

Target. Ministry of Foreign Affairs or other relevant Ministerial-level authority.

Key message. Encourage your country to nominate at least one qualified, independent and capable candidate (except where you do not believe that the present government of your country will support independent and qualified candidates) for the election. Advocate for an open, fair and transparent process at the national level for the identification and selection of highly qualified and independent candidates. In general, try to engage with the State and civil society in an open, inclusive, fair

and transparent selection process.

If your government is a member of ECOSOC, encourage it to only vote for candidates who meet the criteria of independence and impartiality and who are experts in the field of economic, social and cultural rights bearing in mind the need to ensure gender balance in the composition of the Committee.

Timing. Elections take place every two years, and the next two rounds of elections are scheduled for 2012 and 2014. The respective calls for nominations will be made available on the Committee webpage around October 2011 and October 2013.²³ The NGO Coalition will send a message to its members regarding the confirmation dates. It is important to start lobbying governments several months before the nomination process to ensure that there is enough time to build transparent and participatory processes for the identification of candidates.

E. Suggestions for Additional Actions

After your initial contact, request a meeting with high-level government representatives and/or regularly follow up with relevant contacts in the administration to encourage the government to:

- Develop procedures at the national level to ensure an open, inclusive, transparent and fair process aimed at attracting and selecting a gender-balanced pool of highly qualified persons from a range of relevant backgrounds, who meet the criteria to stand for election as members of the Committee.
- Ensure that a call for nominations of and applications from experts, who meet the criteria, is widely publicised and advertised throughout the country and that civil society organisations competent in the areas covered by the ICESCR are involved in all stages of the nomination process.
- Consult with civil society and give due consideration to the setting up of appropriate mechanisms for this purpose – including the establishment of a selection committee composed of representatives of the State Party, relevant non-governmental organisations, professional associations and other organisations competent in the areas covered by the ICESCR – to review applications (and, if necessary, further specify the requirements potential candidates must meet), solicit further information and conduct interviews with applicants.
- Once a candidate has been selected, make a detailed, public statement setting out how the selected nominee meets the criteria of the ICESCR as well as any other technical and objective requirements necessary to perform the duties of a Committee member, effectively, independently and impartially.

F. Suggestions for Additional Targets

Targets. Government representatives, national human rights institutions, NGO partners.

Key message. Support your organisation's calls on the government as outlined in the sections above and get involved.

Timing. Before the deadline for nominations.

Members of the legislature

- Contact members of the legislature and ask them to raise questions with the government regarding the candidate selection process.

Independent national human rights institutions

- Contact your national human rights institutions to seek their support for putting pressure on the government to establish an open and transparent process.

Popular campaigning and raising public awareness

- Make sure your NGO partners are aware of the forthcoming elections. Encourage them to think about the role they could play in the national process and how they could pressure government to establish procedures at the national level that are open, public and transparent.

23 See the OHCHR webpage on the CESCR: <http://www2.ohchr.org/english/bodies/cescr/index.htm>.

- Raise the elections with journalists/media interested in international affairs and UN issues.
- Write to relevant professional organisations – e.g., your law society, medical associations, housing associations, educational associations and trades unions – in your country (they may have specific internal bodies that deal with human rights or address the president) along the same lines as the model letter to government. Ask them to write to the government in their own capacity or make a public statement in support of an open and transparent process for the selection of national candidates.

FEEDBACK

Your feedback is very important to us. Please get back to us to let us know:

- ▷ If you have been able to take action. If so, what?
- ▷ The response of your government.
- ▷ Any interest/activities on the part of NGO partners, government representatives or media.
- ▷ Information about the government's nominee.

Please send your feedback to: op-coalition@escr-net.org.

2. Raising Awareness and Building Capacity to Use the OP-ICESCR

In many societies, there remains a lack of awareness of the content of the ICESCR and the role of the Committee. As illustrated throughout this Advocacy Toolkit, the OP-ICESCR is of tremendous importance due to its capacity to provide an international remedy for violations of ESCR as well as to enhance their realisation. Based on its use, it has the potential to provide a heightened understanding of the full scope of the ICESCR. It can therefore help to strengthen the implementation of the ICESCR itself, require States Parties to identify and revise laws that contravene or fail to give effect to the ICESCR, develop ESCR jurisprudence by sharpening the understanding of standards and creating precedents that can be applied at the national and regional level and support the long-term promotion and realisation of human rights.

A. Recommended Actions

To promote the implementation of the OP-ICESCR, your organisation could:

- ▷ **Build public awareness** of the ICESCR and its Optional Protocol by using the process of campaigning and your government's ratification of the OP-ICESCR as an opportunity (see Section 6 above).
- ▷ **Develop materials and share information** that will assist individuals and organisations advocating for the use and implementation of the Optional Protocol. You may find it helpful to use sections of this Advocacy ToolKit. For information about the OP-ICESCR, visit the ESCR-Net's website at: <http://www.escr-net.org/> or the NGO Coalition's website at: <http://www.opicescr-coalition.org/>.
- ▷ **Organise activities** – e.g., training sessions, workshops and seminars – for organisations and individuals to creatively think about ways to use the Optional Protocol.
- ▷ **Inform governmental officials**, representatives, administrative officers and members of the judiciary through public seminars, round tables, training workshops, etc. on the new mechanisms introduced by the OP-ICESCR, the implications of your country being a Party to the OP-ICESCR, the justiciability of ESCR, etc.

Discussion seminars would allow the government to creatively brainstorm and consider policies and initiatives that would effectively implement the OP-ICESCR. In light of this, it would be key to invite experts – e.g., academics, litiga-

tors and members of international human rights treaty bodies – who can speak on the issues of adjudication of ESCR and the experiences of complaints to other treaty monitoring bodies.

- ▷ **Advocate policy and legislative measures** to implement the OP-ICESCR, ensure its effectiveness and establish effective domestic remedies by, for example, following up on meetings held during the ratification procedure and arranging meetings with new influential actors, governmental officers, politicians, etc.
- ▷ **Stimulate interest among the public** through activities – e.g., public seminars and forums – discussing the content, advantages and new venues provided by the OP-ICESCR.
- ▷ **Engage the media** to disseminate and raise awareness of the OP-ICESCR by, for example, writing letters to editors, issuing media releases on upcoming events and writing opinion-editorial pieces in the local media drawing on local examples (see more about strategies on how to engage the media above, Part I, Section 6: *Public Campaigning and Media Work*).
- ▷ **Support litigation** to ensure that strong cases reach the Committee to set positive precedent and verify that the decisions are publicised in your country (see below Part II, Section 3: *Bringing Complaints to the Committee*).

3. Bringing Complaints to the Committee

Once the Optional Protocol comes into force, there will be a need to support good cases at the domestic level that could be potentially taken forward under the new complaints mechanism to create positive precedent. Such pro-active engagement with national groups involved in litigating economic and social rights issues is particularly important due to the strict time limitation for submitting complaints after the exhaustion of domestic remedies.

The NGO Coalition is working in coordination with **ESCR-Net's Adjudication Working Group**²⁴ to develop a strategic litigation programme in support of the OP-ICESCR and to build critical resources to increase the capacity of groups to engage effectively at the national and international levels. This will be done by:

- ▷ Bringing together practitioners with expertise in various aspects of strategic litigation work. This will build a dialogue on developing resources to support groups who are interested in submitting communications under the OP-ICESCR mechanism.
- ▷ Developing a Guide on Strategic Litigation under the OP-ICESCR. This complementary Guide will focus on building strong legal argumentation and satisfying relevant procedural requirements to present a successful case to the Committee under the OP-ICESCR mechanism.

4. Calling on States to Opt In to the Inquiry and Inter-State Procedures Under the OP-ICESCR

Some governments may ratify the OP-ICESCR while failing to make a declaration recognising the competence of the CESCR to undertake inquiry and inter-State procedures. (These are explained in Booklet 2, Section 2: *What is Introduced by the OP-ICESCR*.) The inquiry and inter-State procedures are important as they provide avenues for redress in situations where victims may be unable to submit communications for various reasons – e.g., fear of reprisals or lack of capacity to document the gravity or systemic nature of the violations. The procedure also enables a more timely response to grave and/or systematic violations. It will also enhance the CESCR's ability to review systematic violations that affect large groups of people.

You can lobby your government to opt in to the inquiry and inter-State procedures to remove all barriers to access the Optional Protocol. Governments can opt in at any stage following their ratification of the Optional Protocol.

24 Find out more about this project at: http://www.escr-net.org/workinggroups/workinggroups_show.htm?doc_id=465879.

5. Advocating for Strengthened National Remedies for Violations of ESCR

Advocacy for national remedies can occur at any stage – even prior to ratification of the OP-ICESCR. However, where a State has ratified the Optional Protocol, it has a stronger incentive to ensure that national remedies are adequate enough to prevent it from being found liable for a violation at the international level.

You can also make the case that while the OP-ICESCR provides an important remedy at the international level, in order to further advance access to justice for ESCR globally, the Optional Protocol should be complemented by effective remedies at the national level, which are often more accessible to victims of violations. To do so, governments must:

- Ensure that ESCR are recognised under national law and enforceable before domestic courts and that effective remedies are provided for individual and systematic violations;
- Remove procedural and other obstacles to access justice for victims of human rights violations (in particular, those that exclude people living in poverty), provide legal aid and ensure that all people are aware of their rights;
- Ensure national human rights institutions and regulatory bodies have the capacity and mandate to investigate complaints of violations and monitor government performance to ensure compliance with human rights; and
- Comply with judicial human rights decisions.²⁵

²⁵ These recommendations are drawn from a booklet on public campaigning by Amnesty International, *Make Our Rights Law: Enforce Economic, Social and Cultural Rights*, 2010 [<http://www.amnesty.org/en/library/info/ACT35/002/2010/en>].



Photo: Claudio Papapietro

Justice **NOW!** Ratify to Protect all Human Rights

CAMPAIGN FOR THE RATIFICATION AND IMPLEMENTATION
OF THE OPTIONAL PROTOCOL TO THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS



About the International NGO Coalition for the OP-ICESCR

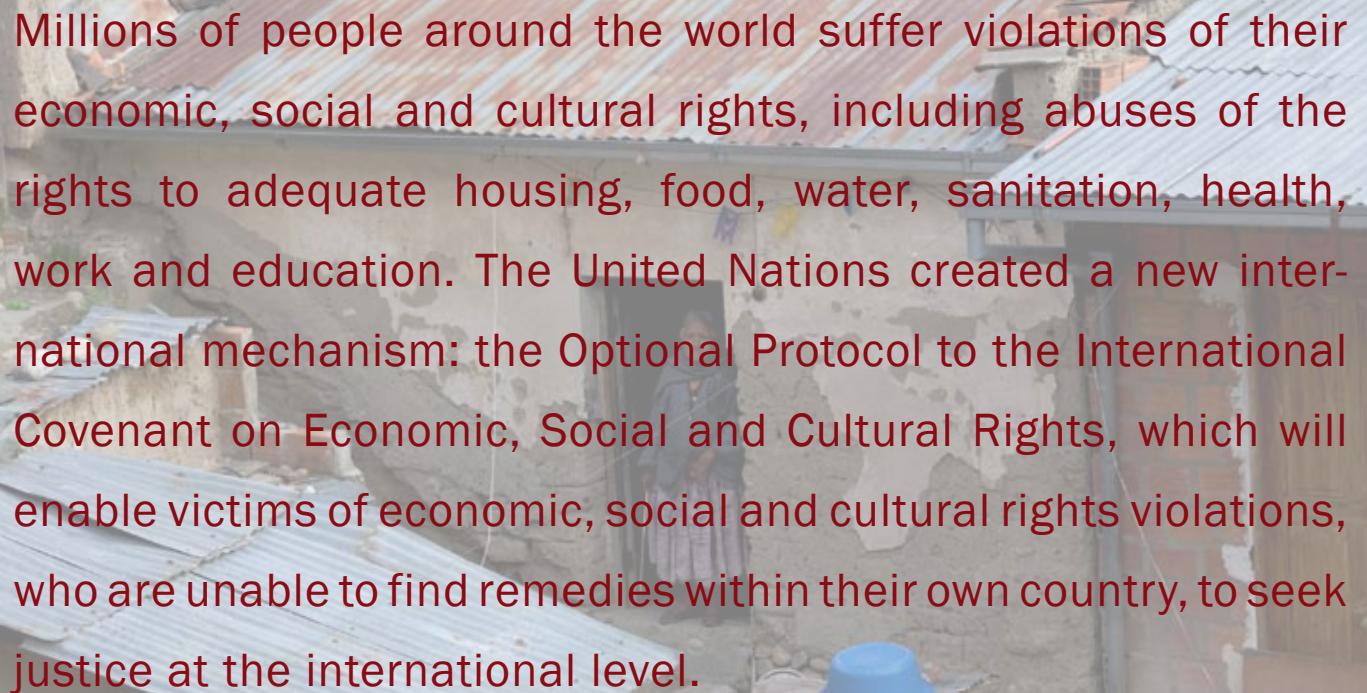
The International NGO Coalition for the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (NGO Coalition) brings together hundreds of individuals and organisations from around the world who share the common goal of promoting the ratification and implementation of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. The NGO Coalition led civil society efforts towards the adoption of the Optional Protocol and now focuses on the ratification and implementation of this Treaty.

Through the Campaign for the ratification and implementation of the OP-ICESCR, Justice NOW! Ratify to Protect all Human Rights, the NGO Coalition seeks to:

1. Secure the immediate entry into force of the OP-ICESCR with a large and regionally diverse number of ratifications/accessions;
2. Ensure the effective functioning of the OP-ICESCR moving forward by: advocating for the adoption of effective rules of procedure, encouraging the election of Committee members with a strong ESCR background, supporting harmonization of national-level systems with the OP-ICESCR and working with the Committee and national-level authorities to build awareness and ensure progressive implementation of the Treaty;
3. Provide litigation support to ensure appropriate cases reach the Committee to set positive precedent;
4. Increase awareness on the OP-ICESCR and strengthen the capacity of organizations to use this instrument as an important tool to advance ESCR work at the national level;
5. Expand and strengthen the network of organizations working on the Optional Protocol, the ICESCR and ESCR-related issues more broadly;
6. Facilitate the involvement of national-level organizations on the presentation of strategic cases before the CESCR and the implementation of decisions and ensure that appropriate cases reach the Committee.

Get
Involved!

Join the NGO Coalition and support accountability for ESCR violations. If you want to be a part of the NGO Coalition and receive further information about the Campaign, fill out the membership form available at: <http://www.escr-net.org> or contact us at: op-coalition@escr-net.org



Millions of people around the world suffer violations of their economic, social and cultural rights, including abuses of the rights to adequate housing, food, water, sanitation, health, work and education. The United Nations created a new international mechanism: the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which will enable victims of economic, social and cultural rights violations, who are unable to find remedies within their own country, to seek justice at the international level.

FOR MORE INFORMATION, PLEASE VISIT: www.escr-net.org

A TOOLKIT FOR ACTION:

Booklet 1: REFRESHING YOUR KNOWLEDGE ABOUT THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Booklet 2: OVERVIEW: THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Booklet 3: WHY SHOULD STATES RATIFY THE OPTIONAL PROTOCOL TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS?

Booklet 4: TOOLS TO LOBBY YOUR COUNTRY AND ADVOCATE FOR THE RATIFICATION AND IMPLEMENTATION OF THE OPTIONAL PROTOCOL

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