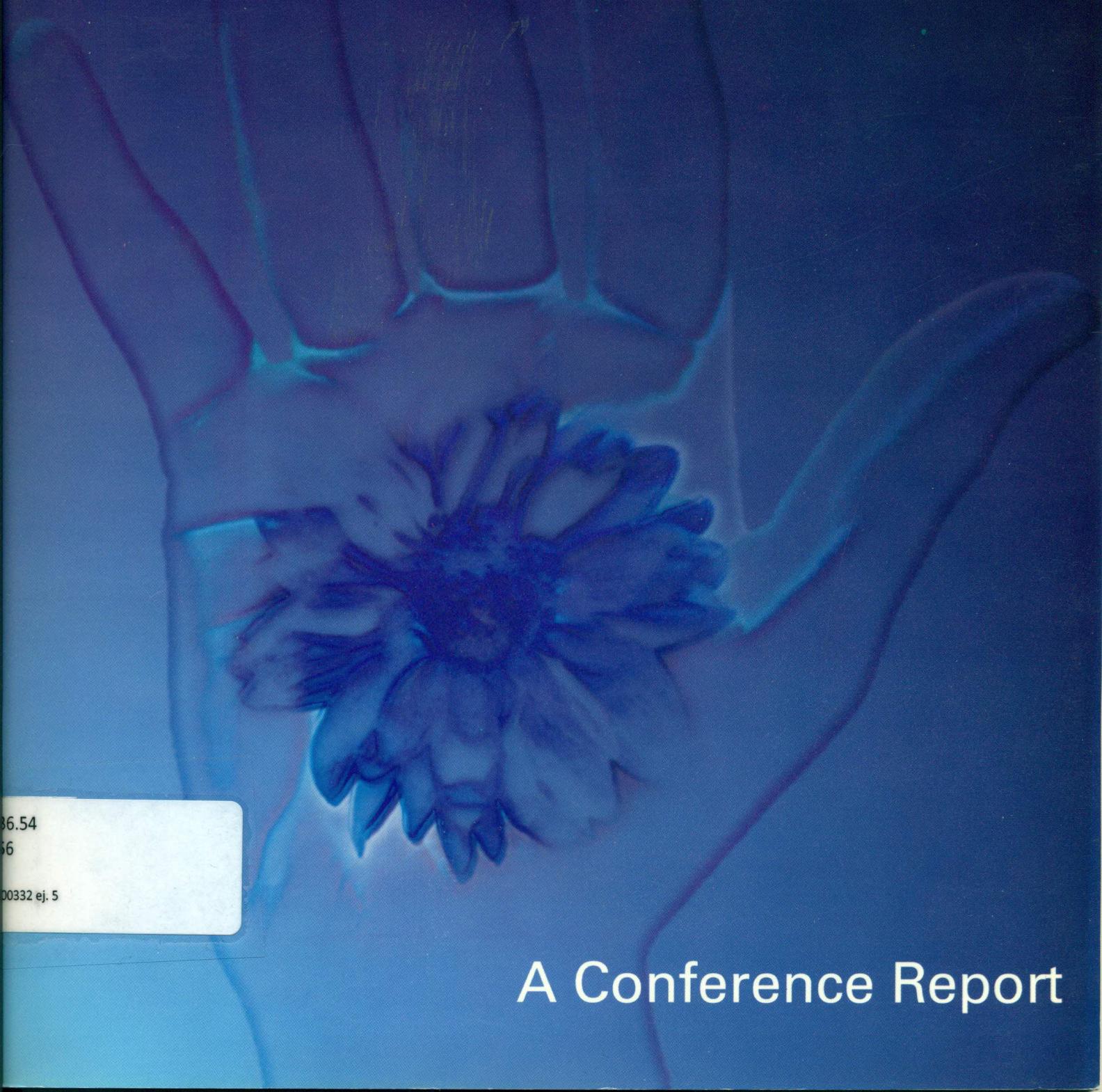


PROMISES TO KEEP

Using public budgets as a tool to advance economic, social and cultural rights



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A Conference Report

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PROMISES TO KEEP

USING PUBLIC BUDGETS AS A TOOL TO ADVANCE ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Jim Shultz

Reflections and strategies based on a three-day dialogue between international human rights and budget activists, convened by the Mexico City office of the Ford Foundation and FUNDAR-Center for Analysis and Research, in Cuernavaca, Mexico, January 2002.



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Economic, social and cultural rights are the legal obligations of the world's governments, set forth in a variety of human rights accords. Public budgets are mechanisms for allocating public resources and, therefore, often the chief instruments through which governments either comply or fail to comply with these rights. This report is drawn from a three-day conference held in Cuernavaca, Mexico in January 2002, in which international human rights and civil society budget advocates sat down together to examine the connections between these two important fields of work—to create a more powerful force behind economic, social and cultural rights.

The Human Rights Movement

Over the decades, our global understanding of human rights has been steadily expanded. Once those rights mainly included civil and political rights, limitations against the physical and legal abuses of governments toward their people. However, for nearly a century, the global definitions of rights have expanded to include "economic, social and cultural rights" (the right to food, health, education, shelter) and these have been set forth in a series of international human rights agreements. Among the most important are: The Universal Declaration of Human Rights (UDHR); the International Covenant on Economic Social and Cultural Rights (ICESCR); the Convention on the Rights of the Child (CRC); and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Government compliance with these obligations has three main elements, according to the human rights advocates in the meeting. First, governments must respect these rights, for example by not physically blockading food shipments into places where food is needed. Second, governments must protect these rights, especially from violation by non-state actors such as corporations. Third, governments have an obligation to *fulfill* these rights, most notably by appropriating the public funds necessary for their provision but also by taking the appropriate legal steps toward their fulfillment.

International human rights law also recognizes that all rights will not be achieved in any nation over night, and with respect to ESC rights has established a step-by-step method for their advancement—"progressive realization." This sets a standard: that governments may not take any deliberate steps backwards in the provision of these rights; that they must make "full use of the maximum resources available"; that when large numbers of people are denied these rights it is assumed that the government is not doing all it can; and which obligates governments to not discriminate in the provision of these rights on the basis of gender, income, race, and so forth.

Human rights advocates at the meeting outlined a mix of tactics that they use to compel government to comply with these obligations. Most importantly, rights campaigners work to educate people about their human rights, allowing them to become advocates for themselves. Human rights groups also

seek to create public pressure on governments through monitoring and reporting to international human rights panels, through attention in the media, and through direct citizen pressure aimed at government officials. Where necessary and possible, advocates take legal action to force compliance, an option that is still limited under international accords, but more available under certain national constitutions and statutes.

The human rights advocates also identified a series of serious challenges to their work. Human rights, even those inscribed in law, depend on a broad public consensus that is often fragile, one which can be swept away in counter tides such as the war on *terrorism*. The field also lacks sufficient tools to force governments to act, even when rights are the law. As a movement often led by professionals and lawyers, it runs the risk of lacking accountability to those directly affected. Lastly, the US presents a special problem, with its record of not ratifying and ignoring key accords.

The Citizen's Budget Movement

Civil society budget advocates at the conference noted the major growth in citizen groups worldwide, which seek to monitor and influence government budget making. Driven by the twin aims of improving governance and the lives of the poor, the nature of this work varies from country to country. Advocates laid out a series of elements, however, which are key to almost all budget work. First, they noted that work must be strategic, focusing on specific policy goals not just generally reporting on what the budget says. Second, groups doing analytic budget work must develop an analytic capacity that is solid and beyond dispute. Budget groups also need to be involved in some fashion at each stage of the budget process—drafting, legislative, implementation and auditing. The advocates were also clear that budget efforts must translate their analytic work as a basis for both engaging public officials and educating the broader public.

The types of analytic work carried out by budget advocates also varies from context to context. In some countries groups focus on process and transparency issues. Others undertake broad analysis of overall expenditures to compare spending, area by area (education vs. military). Some groups examine specific areas of spending (health care, for example) and others look at the budget from the perspective of specific populations (children, women). A less developed area of work looks at the effectiveness of public spending.

Budget advocates at the meeting also outlined a set of important challenges to their work. Transparency and access to both information and the budget process is a problem in most poor countries. Budget groups struggle with how much to engage the government on "the inside" and how much to remain a forceful critic on "the outside." There are questions about how best to use limited technical capacity and how to use the technical work involved as a means of empowering grassroots-oriented activity. Budget groups struggle

with the hard budget tradeoffs forced by limited public resources and, in developing countries, must battle against budget limitations imposed by the World Bank and International Monetary Fund (IMF).

Building the Bridge Between Budget Work and Human Rights Work

Advocates from both sides agreed that each movement has something significant to gain from collaboration with the other. Combining the financial analytic rigor of budget analysis with the moral and legal weight of human rights work could, among other things, lead to the development of more concrete measures of whether governments are meeting their obligations toward the realization of ESC rights. In collaboration, these two groups could create new methods for analysis, investigation, and bringing key facts to public light. Both movements have a strong interest in government transparency and the fight against corruption. Both have advocacy expertise and resources that complement one another.

The linkages between these two movements need to be formed at a community, national and international level. Participants identified a range of potential joint work: the promotion of more specific content in ESC rights agreements; specific analytic work that measures budget expenditures against legal rights obligations; and capacity building and networking activities such as training and the development of materials that can help advocates understand the connections between the two approaches.

Building the connections between these two movements will also involve dealing with certain challenges. Budget advocacy is about engaging public officials and dealing with tradeoffs. Human Rights work is about demands that are essential, where compromise is more resisted. As these two perspectives look at budgets together, there will be hard issues to resolve about balancing competing priorities for public funds (for example, education vs. health). Joint work will need to deal with the same lack of government transparency and lack of strong enforcement tools against governments.

Despite these challenges, both sides were clear that the potential for effective collaboration between these two movements is substantial. At minimum, budget groups should study the ESC rights agreements that bind governments, to explore how these might give their work greater moral and legal force. Human rights advocates should examine how budget analysis could lend more specificity and clarity to their demands. The potential is also more than that—an opportunity to join together two great efforts working toward the same goal of economic and social justice.

I. INTRODUCTION

Human dignity is an inherent right of all people. Human rights are the promises that societies make to their members to assure that dignity. These rights go beyond being mere promises, however, they are also the law, be it by domestic statute or international accord. Over time and nation-by-nation, the nature of how those promises are recognized and enshrined into law has changed. Originally, human rights were mostly about protecting civil liberties, such as the freedoms of speech, press and religion, and freedom against torture and abuse—restrictions on the excesses of governments against individuals. For a century, our definitions of human rights have expanded to include economic and social rights—to health, food, income, housing and other basic needs that governments must guarantee.

Public budgets are the instruments by which governments raise and allocate the financial resources of the state. They also are the means by which governments provide for basic necessities that relate to human rights. Public budgets are more than a collection of numbers, they are a declaration of a community's or nation's priorities. From a human rights perspective, budgets are the concrete means by which governments either fulfill or violate human rights requirements. Just as, for many years, citizens of the world have come together to defend and expand our basic human rights, so now there is a global effort underway to bring citizens to the table, to monitor and influence government budget making.

In January 2002, the Ford Foundation, in collaboration with the Mexican civic organization FUNDAR, brought together more than a dozen advocates from these two fields for a three-day meeting in Cuernavaca, Mexico. Coming from Africa, Asia, Latin America, North America and Europe, the group explored how these two vibrant public movements could join hands toward the common goal of economic and social justice. Previously, at the third international meeting of the International Budget Project (IBP), in Mumbai India in November 2000, these connections had been explored in a preliminary dialogue among budget advocates. The Cuernavaca meeting, in bringing together senior leaders from both fields, sought to deepen that exploration and to identify strategic and concrete ways to build those connections.

The conference included broad overviews of each field by Ann Blyberg of the International Human Rights Internship Program and Warren Krafchik of The International Budget Project. It included the presentation and discussion of four major case studies of analytic and advocacy work linking the two fields—from South Africa, Mexico, Argentina and New York City (each is summarized at the end of this report). Presentations also included three “reports from the field,” snapshots of human rights and budget advocacy in action from Kenya, Northern Ireland and India (summarized in the body of this report).

This report of that conference is an effort to capture that examination of how these two fields of public effort—human rights advocacy and citizen budget work—might collaborate. It is a synthesis of the observations shared by more than a dozen highly diverse participants on how they might strengthen one another's work and to become a greater force in the advancement of human dignity.

II. HUMAN RIGHTS - MAKING HUMAN DIGNITY THE LAW

The term “human right” is more than just a moral declaration. It is a legal concept with very specific meanings and ramifications laid out by the human rights advocates at the meeting. First, by declaring something to be a right it is declared to be essential, something inviolable and universal. Like the “Archimedean point” in geometry, which gives all other points and measures a basic reference point, once we legally declare something to be a right, it becomes the key point of reference for all other government obligations. Second, rights must be granted without discrimination, guaranteed to every single man, woman and child, regardless of who they are, where they live, or under what economic circumstances. Third, the institutions that have traditionally been recognized as having the fundamental duty to guarantee those rights are governments—not individuals, churches, businesses or civil society organizations. Finally, unlike “needs” or “principles” a right is something that can be legally claimed and under law, if a right is violated, governments are bound to take corrective action and in some cases can be forced to do so by legal means.

Economic, Social and Cultural Rights

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or lack of livelihood in circumstances beyond his control.

--The Universal Declaration of Human Rights

Outside the human rights field, many people associate human rights with civil rights, limitations against the abuses of governments toward their people—jailings, beatings, unfair trials, etc. To be clear, these civil human rights are basic and urgent and in far too many parts of the world are still being violated on a daily and horrific basis. However, the human rights advocates explained that dating back nearly a century the definition of human rights has been expanded to include economic, social and cultural rights (ESC rights) as well. In general, human right groups offer this categorization (with overlap between them common):¹

Economic Rights: The right to food, shelter, work and income

Social Rights: The right to social security, physical and mental health

Cultural Rights: The right to education and the rights of minority groups

These rights have been defined more specifically and set forth in a series of international human rights agreements (see box). Among the most important of these, from the perspective of human rights advocacy are: The Universal Declaration of Human Rights (UDHR); the International Covenant on Economic Social and Cultural Rights (ICESCR); the Convention on the Rights of the Child (CRC); and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). In turn each of these agreements has

been made even more specific through a series of formal "comments" by governing bodies such as the UN Committee on Economic, Social and Cultural Rights, and the Committee on the Rights of the Child, as well as in court rulings issued under these agreements.

Under this body of international human rights law, the duty of governments to guarantee economic, social, and cultural rights has three important elements: respect, protection and fulfillment.

Respecting Human Rights

Governments, noted the rights advocates, must take no action that interferes with any of the rights outlined. It is a clear violation of the right to food, for example, if a government attempts to physically blockade food shipments to hungry people. In one of several case studies presented at the conference, anti-poverty advocates in New York City invoked such a human rights claim against local officials, in connection with local implementation of the Food Stamp program. The Welfare Reform and Human Rights Documentation Project found that the city had set up bureaucratic barriers to keep needy families from applying for and receiving Food Stamp benefits (see case study at the end of this report).

Protecting Human Rights

Governments have a legal obligation to step in and prevent human rights violations by other "non-state actors" such as corporations. In 1993, for example, local and international human rights groups invoked a human rights claim against the government of Ecuador to intervene when oil exploration by the ARCO Corporation threatened indigenous communities with the loss of their land and sources of food.ⁱⁱ

Fulfilling Human Rights

Governments also have an obligation to take proactive steps, said the advocates, including public policies and projects, to assure that economic, social and cultural rights are fully guaranteed. The ICESCR, for example, states that governments are bound to advance the realization of these rights, "by all appropriate means, including particularly the adoption of legislative measures."ⁱⁱⁱ In its formal comment on "The Right to Adequate Food," the United Nations Committee on Economic, Social and Cultural Rights declared that, "when no other possibility exists" for people to feed themselves, governments are duty-bound to provide direct subsidies or other assistance.^{iv}

Human rights advocates noted that the principle underlying economic, social and cultural rights is a clear one. If we leave it solely to the marketplace or to charity to provide for people's basic needs—health, food, housing—tens

of millions of people in the world will continue to be denied them. We have reached a point in human history where we have agreed, on paper, that these basic necessities are rights that our governments must guarantee. Ann Blyberg of the International Human Rights Internship Program, in an overview presentation on human rights delivered at the meeting, noted, "Governments have obligations and a legal responsibility to answer to them." Strengthening the nature of those obligations and developing more forceful ways of getting governments to meet them is what international human rights work is all about.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS FOUR IMPORTANT INTERNATIONAL AGREEMENTS

(And Some Key Provisions Relating to Public Expenditures)

The Universal Declaration of Human Rights – UDHR (ratified by the UN General Assembly in 1948): "Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing, and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or lack of livelihood in circumstances beyond his control (article 25)." Full text available at: www.un.org/overview/rights.html.

The International Covenant on Economic Social and Cultural Rights - ICE-SCR (ratified by UN General Assembly in 1966, took effect in 1976): "The State Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and the right to continuous improvement of living conditions" (article 11). Full text available at: www.unhchr.ch/html/menu3/b/a_cescr.htm.

Convention on the Rights of the Child – CRC (adopted by UN General Assembly in 1989, took effect in 1990): "State parties shall pursue full implementation of [the child's right to the highest attainable standard of health] and ... shall take appropriate measures ... to combat disease and malnutrition ... through the provision of adequate nutritious foods ... State parties recognize the right of every child to a standard of living adequate to the child's physical, mental, spiritual, moral and social development. ... State Parties...shall...in case of need provide material assistance and support...particularly with regard to nutrition, clothing and housing" (articles 24 and 27). Full text available at: www.unhchr.ch/html/menu3/b/k2crc.htm.

Convention on the Elimination of All Forms of Discrimination Against Women – CEDAW (adopted in 1979 by the UN General Assembly): "States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and...to embody the principle of the equality of men and women in their national constitutions or other appropriate legislation...to ensure, through law and other appropriate means, the practical realization of this principle" (Article 2). Full text available at:
<gopher://gopher.un.org:70/00/ga/cedaw/convention>

Progressive Realization: Securing Human Rights Piece by Piece

While the battle to make ESC rights the law may have been won, there is still a long way to go in making them a reality. This is not something that will happen with the stroke of a pen and it will not happen over night. "Governments need a plan," said Larry Cox, a human rights program officer with the Ford Foundation, who was also a participant in the meeting. "They need to say, 'Here is what we are going to do to advance toward these rights.'" Human rights law has adopted a method for moving governments down the path of universally guaranteeing those rights in the form of "progressive realization." Under human rights law the realization of economic, social and cultural rights can be measured, in part, by three important standards:^v

No Deliberate Steps Backwards

The most important indicator that a government is moving forward on human rights is the obligation that it cannot move backwards, especially as a matter of clear, deliberate policy. It was exactly such a deliberate step backwards that the Welfare Reform and Human Rights Documentation Project found in New York, in the cutting of Food Stamp benefits. Food advocates in Argentina also identified a similar deliberate step backward when the national government proposed deep cuts in a key nutrition program for the poor (see case study at the end of this report).^{vi}

Full Use of the Maximum Available Resources

While human rights law does recognize that governments may not have the financial resources required to fulfill all rights immediately, the lack of funds, by itself, is not a legal justification for failing to provide for basic needs. Governments are obligated under human rights doctrine to make, "full use of their maximum available resources."^{vii} Again in the New York Food Stamps case, advocates identified a clear violation of this principle in the state legislature's use of welfare savings for a tax cut instead of meeting the needs of hungry families.

Large Numbers Lacking the Basics is a Presumed Violation

As the UN Committee on Economic, Social and Cultural Rights declared in one of its interpreting comments on the ESC covenant, "a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health, of basic shelter and housing, or of the most basic form of education, is, *prima facie* [at first look] failing to discharge its obligations under the Covenant."^{viii}

As rights advocates explained, in essence these standards ask the question – is government doing its best? As will be discussed in detail later in

this report, it is in creating clear and specific ways to measure progress, that there may be the most potential for marrying human rights advocacy with citizen budget work.

Non-Discrimination: A Standard that is Immediate

While human rights law anticipates that most economic, cultural and social rights will be realized over time, the advocates noted that governments are obligated to fulfill a number of aspects of these rights immediately—among them, non-discrimination, the obligation to treat all people equally. For example, with regard to the right to food under the ESC Covenant, the UN Committee on Economic, Social and Cultural Rights has declared:

Any discrimination in access to food, as well as to means and entitlements for its procurement, on the grounds of race, colour, sex, language, age, religion, political or other opinion, national or social origin, property birth or other status...constitutes a violation of the Covenant [on ESC rights]."^{ix}

Similarly the Constitution of the World Health Organization (WHO) declares:

...the enjoyment of the highest attainable standard of health is a fundamental right of every human being, regardless of race, religion, political ideology, social or economic condition.^x

The advocates in New York invoked this prohibition of discrimination in finding that the city's Food Stamp program maintained barriers that blocked access for foreign language speakers (mostly immigrants). The Mexican NGO, FUNDAR, in a preliminary paper presented at the meeting, invoked the WHO constitution in claiming a discrimination violation against the Mexican government for broad inequalities, between the wealthy and the poor, in its provision of public health care (see case study at the end of this report). Because governments are under an immediate obligation to remedy violations of discrimination, findings such as these have a special potency under international rights law.

The Art of Human Rights Advocacy

Human rights advocacy presses two goals simultaneously—continually extending the reach of human rights (by expanding human rights agreements and making them more specific) and strengthening the ways in which pressure can be brought to bear on governments to meet their human rights obligations.

The human rights advocates at the Cuernavaca meeting outlined a mix of tactics which the movement uses to apply such pressure:

Education and Empowerment

The human rights advocates were clear that the first line of human rights defense is providing basic and broad education about human rights to the individuals and communities directly affected. The most certain way to catch human rights violations, they noted, is for the people affected to know what their rights are. This is especially important in the area of economic, social and cultural rights, where billions throughout the world may not know they are entitled, by international law (and therefore domestic law), to basics such as food, health and shelter. When the advocates conducted their study of the Food Stamp program in New York, they interviewed more than 200 families who were dealing first hand with the process of applying for food assistance. This not only gave the study solid first hand information and first person voices to strengthen its authenticity, it also helped educate people about their rights. In a conference response to the New York case study, Ellen Nissenbaum, of the U.S. Center on Budget and Policy Priorities, observed, "Before the study many Food Stamps recipients didn't know they had that right. You can have the law, but if people don't know they have the right, they can't claim it."

Monitoring, Reporting, and Investigations

The most important strategies for human rights advocacy are local, compiling the facts into reports of various sorts, and bringing pressure directly onto local, sub-national and national governments by raising up those facts through media work, public engagement, etc. However, another means of bringing pressure to bear, the advocates explained, is by using provisions in human rights accords which open the door for formal international investigation of a government's human rights record. The ICESCR, for example, includes a requirement that countries file a report every five years with the UN's ESCR committee, documenting their progress on the rights included in the Covenant. An important strategy is for the civil sector in the country to file a parallel report with the committee, documenting any violations or issues which the government is not especially interested in disclosing.

In 1991, for example, when the Dominican Republic filed its ESCR report, the NGO Habitat International Coalition called the Committee's attention to the forced eviction of 15,000 families from their homes. This brought international attention and pressure on the government, strengthening the political hand of local groups opposed to those evictions.^{xii} NGO lobbying of the UN Committee on ESC Rights to take action is another important human rights tool.^{xiii}

Report from the Field

Maggie Beirne
Committee on the Administration of Justice (Northern Ireland)

Maggie Beirne does her human rights work in a society racked by decades of violent political conflict. The Committee on the Administration of Justice (CAJ) has waged its public battle for economic, social, and cultural rights for Northern Ireland's residents against this backdrop. With peace, the group's challenge is changing—CAJ now demands those rights from a political system in transition and asserts the right of civil society to be involved in that new system. Says Beirne, CAJ's research and policy officer, "Our politicians have secured power for the first time. The last thing many want is to talk about how to share that power." CAJ works by educating people and communities about their rights and forming rights coalitions with other groups. As in Guatemala and other post-conflict situations, Northern Ireland's peace accords include specific provisions requiring the government to meet certain basic ESC rights for all, and to assess its performance in doing so. Noting that ESC rights, by definition, are supposed to apply to all, without discrimination, Beirne noted, "These issues are actually good for building bridges between Catholics and Protestants since they are more widely shared than concerns around civil and political rights." CAJ's next challenge is to use the "equality assessment" tool, required now for all proposed new government initiatives, as a new way to advance ESC rights.

Public Pressure

Human rights groups also apply pressure on governments, advocates explained, by engineering international letter writing and other campaigns aimed directly at public officials. When the peasant residents of the Indian village of Pethupari were refused land titles by the Indian government, the international human rights group FIAN generated more than 1,000 letters to local authorities, from all over the world, citing the case as a violation of the right to food (by denying people land for planting). The campaign eventually helped get villagers their titles.^{xiii}

Groups bring pressure on governments through local and international media attention. This coverage is most powerful when it focuses on the human stories involved—Brazilian farmers losing their land, New York mothers not having enough food to feed their children—and defines the issue as a moral one. These human stories are then juxtaposed with the legal mandate the government is violating (this is what the ICESCR says, this is what the New York state constitution says) and with the public rhetoric of the authorities involved. When Argentine advocates were fighting to restore the food program funds cut after the World Bank imposed an austerity program on the government, they used

the public rhetoric of the Bank's president, James Wolfensohn, to make their case. Side by side with the hard facts about the cuts triggered by the Bank, advocates quoted Wolfensohn's lofty rhetoric about the importance of guaranteeing, "environmental and human sustainability, so fundamental to the long-term successful development and future of our planet..."^{xiv}

Another tool, especially aimed at multinational institutions such as the World Bank and International Monetary Fund, is to apply pressure through the national governments that are part of their governing structures. In the mid-1980s Indian and international human rights groups mounted an opposition campaign to a World Bank-financed dam project in India's Narmada Valley, which threatened to displace 150,000 people from their land. Human rights groups applied pressure on officials from North America, Europe, and Japan, helping lead to the Bank's withdrawal from the project in 1992.^{xv}

Legal Action

In the ideal, international human rights accords and domestic human rights laws would have a clear right of action which would allow human rights groups and citizens to directly challenge government human rights violations. In the international arena, advocates noted, options for this kind of legal action are, unfortunately, quite rare. The major international human rights agreements may allow for reporting and even for investigation of violations, but they do not include the teeth of legal sanctions.

On occasion there are some exceptions. When the Argentine government cut funding for its "garden" nutrition program, human rights lawyers with the NGO, Centro de Estudios Legales y Sociales (CELS), identified that the cuts violated an agreement between the Argentine government and the World Bank. CELS Executive Director, Victor Abramovich, presented a paper at the conference, laying out how the group filed a petition with the Bank's Inspection Panel. That engineered a direct threat to the government's line of World Bank credit—a powerful enough tool to force the government to restore much of the funds (see case study at the end of this report).

At the national and sub-national level, the possibility of legal action to protect economic, social and cultural rights is more likely. California, for example, was home to a historic court case in the 1970s (*Serrano vs. Priest*) in which education advocates successfully asserted a "right to education," challenged the inequity of the state's school financing scheme, and forced a major redistribution of funds to low-income school districts. When human rights advocates can find a credible threat of legal sanction, it is one of the most powerful strategies they have at their disposal.

Challenges for the Human Rights Movement

As the human rights campaigners at the meeting looked at the future of their movement, they identified a set of important challenges that affect both the prospects for advancement on human rights and for linking that movement with citizen budget work. These include:

The Fragility of Human Rights Consensus

Human rights are inscribed in law, but their real long-term power comes from having a strong public consensus behind them. "If there is a strong consensus [for the provision of a certain human right] society will put its weight behind it," said Ann Blyberg, in her presentation. "On the other hand, that consensus can be fragile, something external can happen and it is no longer there." A strong example of that fragility, observed Blyberg, is the issue of "racial profiling" in the US, the practice by police and others of targeting specific ethnic minorities for searches or arrest. After years of important work to create public policies and support against the practice, that momentum was shattered by the September 11th attacks, which sparked a counter movement for targeting people of Middle Eastern descent especially. Some rights advocates expressed a fear that, as world political attention shifts to waging "war on terrorism," many civil and political rights, as well as ESC rights, could be swept aside, justified by political leaders as a practical necessity in order to respond to security threats or to reallocate resources for war.

Converting Human Rights Laws into Reality

In her presentation, Maggie Beirne a human rights campaigner with Committee on the Administration of Justice in Northern Ireland, told fellow participants, "All you get with a law is words on paper. How do you turn that into real change on the ground?" One problem is with the human rights accords themselves, often written in vague language in order to win political support, they lack sufficient specificity and teeth to force governments to act. Especially in the area of ESC rights and their progressive realization, the field needs more adequate and effective mechanisms to measure progress in a concrete way and to force a response to violations of these rights.

The Danger of Becoming a Professionally-Driven Movement

Human rights deals with law and a host of legal institutions, so it is no surprise that a great number of human rights leaders are attorneys or other policy professionals. To be clear, skilled professionals such as these are critical to the movement's effectiveness. On the other hand, as with any movement with a cadre of professional leaders, some participants noted the risk that the movement's primary voices and strategists might not fully include or represent the people directly affected. If the human rights movement becomes one of peo-

ple speaking for other people, it will miss the power and legitimacy it needs to win and the chance to empower those who need it most. It is for this reason that groups operating on rights issues at the grassroots level dedicate so much attention to helping people speak for themselves.

US Exceptionalism

Human rights advocates from the US especially noted the problem of "US exceptionalism," the practice by the US of exempting itself or ignoring international human rights agreements—both at home and abroad. For example, while President Carter did sign the International Covenant on Economic Social and Cultural Rights, the US remains one of a dwindling number of nations that has not ratified it. Moreover, the US remains one of just two nations in the world (along with Somalia) that have not ratified the Convention on the Rights of the Child. This presents a special problem for US human rights campaigners who want to employ international human rights standards to provoke US action on ESC rights, domestically or abroad. "Few Americans even know about the International Covenant on the Rights of the Child, or the fact that the US hasn't ratified it," observed Jim St. George, a participant who leads the Tax Equity Alliance of Massachusetts. "If the right isn't recognized as a right, how do you use it as a public argument?"

III. THE CITIZEN'S BUDGET MOVEMENT^{xvi}

Few public decisions have a greater effect on people's every day lives than public budget issues. It is through public budgets that governments decide what kind of education they will provide to their children, health care to their people, and how they will seek to bridge the gap between rich and poor with public welfare and other programs. Nevertheless, few public matters are shrouded in as much mystery and technical jargon.

"Budgets are not financial documents," said John Samuel, of the National Center for Advocacy Studies in India, in his presentation. "They are political documents, an expression of the power relationships in the society." For this very reason, over the course of the past decade a new citizens' movement has emerged worldwide (in both developing countries and wealthy ones), of civil society groups dedicated to opening up the public budget process and bringing budget choices into the public spotlight. Budget advocates at the meeting identified a broad range of activity critical in their work—analysis, media work, lobbying, citizen mobilization, and training and public education to demystify and translate budgets for the general public.

Ultimately, the goal of civil society budget work is to lift out, from the pages and pages of often undecipherable figures, the real stories behind the numbers. When done well, citizen budget efforts strip away the complexity to reveal the basic value choices buried underneath—shall we spend an additional \$10 million on schools this year, or on the military? Making these choices clearer opens up new possibilities for citizen involvement in those decisions.

Budget advocates reported that the increase in citizen budget advocacy has been substantial in recent years. Warren Krafchik of the International Budget Project (IBP) observed in his conference talk that, when the IBP convened its first global meeting of budget advocates in 1997, fifty people from 14 countries participated. By the time of the IBP's third conference in 2000, he said, more than 100 participants from 25 countries participated.^{xvii} In addition, this work has achieved some notable success stories. As Krafchik noted in a paper he presented on budget work, "In Israel, the work of ADVA pressured the government to retract changes to welfare benefits that would have been prejudicial to the country's poorest families and elderly citizens."^{xviii}

Citizen budget work takes root in different ways in different countries. In some places it arises from NGOs and social movements, in others academic institutions, and in others from human rights groups. Kimberli Keith-Brown, a program officer in the Mexico City office of the Ford Foundation, shared the example of Nicaragua, a newcomer to this work. There, she explained, a broad civil society network was formed to oversee foreign aid coming into the country for Hurricane Mitch relief. That network then saw the need for citizen oversight of all public revenues and subsequently founded a civil society budget project. Work in this field began in wealthy countries (such as the US), spread to middle income countries (such as India, Argentina and Mexico) and most recently is making its way into very poor countries (Nicaragua, Uganda, and others), even those where access to solid budget information is still very limited.^{xix}

Key Elements in Effective Citizen Budget Work

Budget advocates explained that the nature of budget work varies substantially from country to country, context to context. In some countries a major focus is still on opening up the budget process and making budget information transparent and accessible. In other countries, most notably in Porto Alegre, Brazil, the emphasis is on broad popular participation in budget development. One of the most common and growing approaches is to focus on specific areas of the budget, including many that relate directly to issues of economic, social and cultural rights (children's issues, education, health, women's rights). Judith Streak of the Institute for Democracy in South Africa (IDASA) presented the conference with an important case study on one such effort, "The South Africa Children's Budget (see summary at the end of this paper).

Across the whole spectrum of the work underway, budget advocates identified several elements as key:

A Strategic Approach

Civil society work on public expenditures is not about focusing analytic resources on a topic just because it is of academic interest to researchers. The work must be part of a larger strategy aimed at informing and influencing budget policies. For many groups budget work focuses on putting the poor first in the ordering of budget priorities. Civil society work must be solid, but it is not neutral. Effective civil society budget work pursues its objectives by combining effective analysis with strong public education and advocacy.

Analytic Capacity that is Rock Solid

Not all budget work is analytic. It also includes extensive amounts of public education, civic mobilizing, and the like. However, the analytic work that civil society groups do undertake on budgets (described in more detail below) must be serious and solid. The work done must be beyond dispute on the facts and clear and compelling in its analysis. Anything less undermines the credibility both of the work and of the organizations that produce it. Explained Ellen Nissenbaum of the Center on Budget and Policy Priorities, "most of your credibility [with policy makers, the media, etc.] comes from solid analysis." That analytic "solidness" comes not from quick or one time analytic work, but by looking at the same general topics year after year, developing expertise and credibility that increases over time.

Involvement Throughout the Budget Process

The public budget process involves a series of stages, each one presenting a different set of opportunities and challenges for civil society budget work. The drafting stage, carried out by the executive branch, is the most closed and the most difficult to influence. Budget advocacy groups typically

exert influence at this stage through contacts they develop with executive branch budget officials.

In contrast, the *legislative* stage, as the IBP's Krafchik explained, presents the most opportunity for civil society input. It is usually the first opportunity for the public, media, and lawmakers to see the executive's budget. In many countries the strategy of strengthening civil society access and influence on the budget goes hand in hand with strengthening legislative branch involvement as well. In fact, civil society budget groups often lead the legislative branch through its own learning process about the budget. "Our job is to help public officials understand the implications of the decisions before them," explained Kwame Owino of the Institute of Economic Affairs in Kenya.

Report from the Field

Kwame Owino
Institute for Economic Affairs (Kenya)

The IEA was formed in 1994, shortly after Kenya established a multi-party democracy. With that change, civil society groups recognized the need for a capacity to analyze and weigh in on major public policy decisions. "Open criticism of government was very new," explains Kwame Owino, research officer with the IEA. In 1999, the group started its Budget Information Program (BIP), with the goal of enhancing government transparency and citizen participation in budget matters. Through the program, the IEA conducts analysis, maintains a direct relationship with members of the national Parliament and Finance Ministry, and produces a variety of reports and bulletins designed to shed public light on budget issues. In one case, after the government produced three different sets of numbers about the projected level of national deficit, the IEA produced a report sub-titled, "Will the Real Numbers Please Stand Up." "Our job," says Kwame, "is it to help public officials understand the implications of the decisions before them and to help the public understand what is going on."

During the *implementation* stage the main objective for civil society groups is to track expenditures to be sure the money budgeted is actually reaching people as promised. The Uganda Debt Network undertakes quarterly field surveys by a team of researchers and community members, to track the government's actual spending on poverty relief programs.^{xx} Some civil society groups also play a role in the *auditing* stage of the budget process, working with government auditing officials to develop issues for investigation and monitoring.

The levels of involvement needed are different at each stage, with budget groups needing to make strategic choices about where they should best invest their analytic and advocacy resources. However, some level of monitoring is essential at every stage.

Translation and Dissemination Capacity

Budget advocates were also clear that civil society work on public expenditures cannot be just conversation among policy elites. The analytic work done must also be translated, in concept, language, and material, for a more popular audience. The objective of this translation is to make the key issues and tradeoffs understandable to the public at large. This requires a special ability, not only to make mundane numbers sing, but to get that information broadly into the hands of the political and civil society actors who can make use of it. Reports sitting on a shelf serve little value. They also noted that it is essential that this analysis be well-timed to reach policy-makers before budget decisions are made and that information must be accessible to those it intends to reach. Typically budget groups use the media as an "intermediary communicator" to translate more complicated material in a simpler way for the general public and likewise with grassroots organizations already skilled at communicating with their members.

Direct Engagement with Public Officials

Civil society actors working on public expenditure issues must also develop the means to directly engage the public officials that govern and influence public expenditure policy—legislatures, executive branch budget officials, government auditors, and others. In some cases this is through formal mechanisms such as public hearings. In other cases this engagement is informal, through lobbying visits, briefings, and especially through collaboration with civic groups that regularly engage public officials.

Public Education and Participation

A final element which the budget advocates at the meeting identified as crucial is the capacity for direct public education and participation. Often this is done through organizations or sectors that are already active in an issue in which public expenditures play an important role (children's and women's issues, for example). The key is to help these groups make the link between their concerns and public expenditure policy. Other projects create specific mechanisms and forums for public participation. Always, the goal is to help bring public expenditure issues into the public debate, in a way that empowers the people and communities directly affected.

Political Independence

Finally and critically, civil society budget institutions must maintain a careful independence from political parties, public officials and any other affiliations that would compromise the integrity of their work. It is this independence from those whose work they monitor, critique, and influence that gives budget groups credibility with the public, the media, civil society in general and also public officials.

The Types of Budget Analytic Work Carried out by Civil Society

Analytic work, said the budget advocates, provides an important foundation in budget work, by examining specific budget-related topics with a strategic eye. These include:

Process and Systems Issues

In many developing countries, before any substantive analytic work can be conducted, civil society groups must focus first on issues of public expenditure process, systems, and transparency. These include access to public expenditure information, the integrity of that information, government systems of financial management, and the time and process allowed for legislative and public input into budgetary decisions.

A Broad Inventory Look at Public Expenditures and Revenues

In some cases groups focus on the broad picture of budget issues: What proportion of total revenues go to education, the military, health care? What areas are growing the most year to year? Who pays taxes and in what proportion? What tax methods are used? How do they stack up in terms of their relative burden on the poor versus the wealthy? Analytic work such as this takes a broad view as a way of identifying some of the key public expenditure issues that need to be focused on in a deeper way.

Program-Specific Work

Other civil society projects examine a specific issue or area of public expenditures. For example, a project might look at education spending, asking the question: If we are committed to guaranteeing a primary education to every child in the nation, how much would that cost per year and how does that compare to the amount already allocated and spent? What is the public expenditure gap between the promise and the reality and what are the options for closing it? What is the public cost of not affording basic services such as health care to specific populations? Both the budget and human rights advocates identified that this type of "costing out" analysis could be an important tool for human rights groups in setting more concrete methods of measuring and achieving progressive realization of ESC rights.

The Budget from the Point of View of a Specific Population

Another method is looking at how public expenditures affect specific populations. IDASA in South Africa, for example, has pioneered the development of a children's budget analysis, looking at the government's legal commitments to children's services and the actual expenditures for those services, a tool which they presented at the meeting (see case study at the end of this report). Other groups, including FUNDAR and a nationwide feminist coalition in Mexico, as well as IDASA, have analyzed public expenditures from a gender perspective.

Evaluating Public Services or Programs

A less developed but important area for civil society budget work is examining the effectiveness of spending—how well the funds allocated are actually delivering the goods (education, health care) to real people. “Budget groups are not very good yet at improving the manner of expenditure,” observed conference participant Michael Lipsky, a program officer at the Ford Foundation. “Much more work could be done by civil society groups to analyze the effectiveness of public spending programs.” Attendees noted that this kind of, “what are we spending and what are we getting” analysis could be especially important as a way of using budget analysis to measure the fulfillment of human rights against the key standards of “maximum use of existing resources” and “progressive realization.”

Challenges for the Civil Society Budget Movement

Throughout most of the world citizen budget work is still very much in its infancy. There is no doubt however that this work is going to keep growing substantially, taking its place, next to human rights advocacy, as an essential pillar of citizen democracy. Civil society budget advocates talked about a specific set of challenges they will need to deal with as the movement grows:

Establishing the Legitimacy of Civil Society Intervention in Budget Matters

The first hurdle, in many countries, is simply establishing that it is a legitimate and important role for civil society to be involved in public budget work. Many governments still consider budget making as the sole prerogative of government players. Civil society groups have to make a place for themselves in the process, building public, media, and political support for their having that role.

Transparency and Process Issues

In most countries public budgets are still developed behind closed doors, in secrecy and with little or no input into their formation. Even once these budgets do see the light of day, usually at the legislative stage, advocates observed that there is no guarantee that the numbers on paper will have any relationship to how funds actually get spent. Legislatures are often technically unequipped to conduct any serious analysis of their own and are given ridiculously small periods of time in which to review budgets before they must approve them. In Mexico, for example, the national Congress has just 45 days to review the budget. In Honduras lawmakers are given only a few days. In many cases, before civil society groups can take on any substantial role in budget making, advocates will need to focus first on opening up the process—making information accessible, reliable and with ample time to analyze and address priority issues.

Insiders or Outsiders?

"Budget work is about engagement," said John Samuel of India. It is about knowing the same facts that insiders know, dealing with policy makers, talking their talk, entering their world, and to a large extent becoming their peers. In the view of some participants an inevitable tension arises between playing the budget game as an insider or positioning your organization on the outside, able to criticize government policies without pulling punches. Other budget participants argued that straddling between the two, while sometimes difficult, is a part of doing budget work. "If you engage, do you know how to disengage?" warned Samuel. "If you only know your entry point and not your exit you end up working for the World Bank." As a rule, budget groups play some of each role in their work and balancing between the two is an important challenge.

The Limits and Uses of Technical Capacity

Similarly, there is an aspect to budget work that is inherently analytic and technical. One does not need to be a doctor of economics to understand budgets, but inevitably within budget movements a cadre of technical experts does undertake the more complicated analytic work. How do groups assure that their development of technical capacity does not come at the expense of also having a solid grassroots base and empowering that base to understand and express itself on the issues? This technical capacity is itself a limited resource. Who decides how it is used? Should this capacity be dedicated to analyzing children's issues, health care, or an examination of state debt?

Limited Public Resources

Even in well-off countries there is a limit to the financial resources with which government has to work. In poorer countries that problem is obviously even more severe. A natural tendency in budget politics is for groups to fall into competition with one another for the limited monies available. Noting this, Michael Lipsky of the Ford Foundation asked, "How can we get competing interests to join together to expand the pie and increase revenues?" To this end, civil society budget work also needs to include analysis and advocacy on taxes and revenue. Advocacy on taxes is a means of assuring that governments have the resources they need to meet people's basic needs. In some countries, the tax system is also one of the most important ways in which governments seek to narrow the gap between wealthy and poor. However, noted Kwame Owino of Kenya, "In a poor country there is only so much you can squeeze out of a small number of affluent taxpayers." Inevitably budgets come down to questions of tradeoffs, of setting priorities and choosing one program versus another.

The World Bank's and IMF's Encroachment on Budget Choices

Several of the advocates warned that a major problem in many poor countries is that the most basic decisions that shape their budget are not made by their own governments but by international financial institutions (IFIs) such as the World Bank and the International Monetary Fund. In many cases these policies are in response to the failure of governments to effectively manage their own fiscal affairs. These institutions then order governments to restrict social spending and the size of their overall budgets as a condition of receiving access to foreign credit, often making the problems far worse. "The processes of structural adjustment [the policies imposed by IFIs] have increased the vulnerability of the most impoverished sectors and have deepened inequality," wrote Victor Abramovich of Centro de Estudios Legales y Sociales in Argentina, in a paper he presented to the meeting.^{xxi}

Several participants argued that, for poor countries especially and the international budget movement as a whole, the policies and powers of these institutions have to become a part of budget work. This means using budget advocacy to assess and influence IFI programs like structural adjustment, debt forgiveness (HIPC) and the World Bank's Development of Poverty Strategy Reduction Papers (PRSPs). It also means challenging the anti-democratic nature of allowing basic budget decisions to be decided by large, far-away institutions over which the people directly affected have no control.

IV. BUILDING THE BRIDGE BETWEEN HUMAN RIGHTS AND BUDGETS

The international movement for economic, social and cultural rights and the international citizen's budget movement are both vibrant, compelling forces for democracy and social change. Each also has an enormous contribution to make to the other.

Why a Collaboration?

Both the civil society budget movement and the movement for ESC rights have, as a central focus, the fulfillment of basic human dignity for the world's poor. And, as advocates from both fields observed, there are many potential benefits from collaboration:

Linking the Values of Rights with the Financial Analytic Rigor of Budget Work

While both movements are aiming for the same basic objective—social justice—each pursues that goal in a different way. Budget advocates can help human rights advocates bring new specificity and new analytic tools to their work. Human rights advocacy can give the citizen budget movement a clearer value basis for how it focuses its work and a new legal foundation for asserting its demands. As John Samuel noted, "Human rights is a value choice that can help direct your budget choices." Human rights work can also give domestic budget work an international dimension by relating budget issues to international human rights law.

Developing Concrete Measures of ESC Rights Progress

A key legal instrument for advancing economic, social and cultural rights is progressive realization, a methodic, irreversible movement forward toward the fulfillment of those rights. But to be meaningful, participants noted, that progress needs to be measured in a concrete way. As Larry Cox of the Ford Foundation said, "I don't think that you can seriously monitor progress on social and economic human rights without monitoring and working on the budget." Budget advocacy and analysis could and should be brought to bear on four specific points that determine whether a government is in compliance or violation with progressive realization of international human rights obligations:

- ❖ Does the government have a specific and concrete plan for increasing fulfillment of those rights each year, expressed in the allocations made in its budgets?
- ❖ Has there been a regression? Have there been cuts in programs essential to the fulfillment of the right to health, food, and housing?
- ❖ Is the government using its "maximum resources" to fulfill those rights?
- ❖ Is there discrimination in the access to those rights?

The International Covenant on Economic Social and Cultural Rights specifically states that the progressive realization of the rights included should be achieved through, "all appropriate means, including particularly the adoption of legislative measures."^{xxii} No legislative measure carries more weight in the realization of these rights than the public budget. Linking budget work and human rights work can help define those issues as clear and specific policy choices.

Lifting up Key Facts

Participants from both fields observed that both human rights work and budget work are about investigating facts. In human rights those facts are about people's experiences and about the international laws which relate to those experiences. In budget work those facts are about numbers, allocations, and trends. Combining these two sets of facts creates both powerful public arguments and new insight for both fields. For example, in its study of public health care services in Mexico, presented at the meeting, FUNDAR linked budget and human rights analysis to reveal that poor rural states were allocated far less than their proportional share of funding for health services. FUNDAR also found that this inequality corresponded with maternal death rates three times higher in those areas, a shocking public fact and evidence of a direct violation of the non-discrimination provisions of human rights law. "Part of our work is just reaching people with the facts they don't know," observed Ann Blyberg, "and budget analysis is a tool to help us come up with the facts."

Report from the Field

John Samuel
National Center for Advocacy Studies (India)

India's National Center for Advocacy Studies (NCAS) arose out of the nation's social protest movements, when civil society leaders saw a need to move beyond small-scale mobilizations to undertake policy work that could have a national impact. When structural adjustment policies imposed on the nation by The World Bank and IMF caused a direct reduction in public spending on health, education and other needs, the NCAS decided to start taking a look at the national budget. "It weighed pounds and pounds," says executive director, John Samuel. "It took us three years to go through all the information." One of the NCAS's most important goals was to demystify the budget for the public and give communities a way to engage in budget making. It also sought to reframe budget debates as rights debates, such as the right to education. "We used budget information to back-up our public arguments on rights," explained Samuel. NCAS also put the government on notice that budget decisions were no longer hidden from view. "We want government to say, 'hey the people are watching what we're doing.'"

Joining Forces for Transparency and Against Corruption

Another important link identified between these two movements is that both must battle public corruption in order to achieve their ends (in the case of human rights, that corruption itself is often a rights violation, by siphoning off resources for basics such as food) and each requires substantial government transparency in order to carry out their investigations. By joining forces on the transparency and anti-corruption front, the two movements could benefit by sharing information, especially about how to obtain government information, and produce greater public pressure for reform.

Joining Advocacy Forces

Finally, participants agreed that the two movements could strengthen one another substantially by linking their public advocacy efforts and resources. Each has expertise to be shared with the other. Each has distinct networks of support (from the grassroots to the international level) that could be linked for action on joint campaigns. Each also speaks a different public language—budget work of numbers and analysis, human rights of law and moral imperative. Linked together these movements can have enormous power.

Strategies for Building the Human Rights/Budgets Connection

The work of linking these two movements is not about building one bridge, but many. Some of these bridges are as international as the UN, some are as local as a remote Indian valley. Creating these linkages is about weaving together people, ideas, projects, cultures and visions. Participants identified a variety of potential joint efforts, including:

Promoting More Specific Content in ESC Rights Agreements

Human rights work combined with budget work is well positioned to push for more specific content of ESC rights in the major international accords. These two movements, working together, could give more specific definition to key terms such as “discrimination”, “a significant number of individuals”, “economic access”, “maximum available resources”, “freedom from hunger”, “progressive realization, and “cutting back”, all of which have enormous impact on government obligations. These two movements could also then mobilize their political support at every level to have those definitions integrated into the work of the relevant interpreting panels, making the major agreements and the obligations they infer on government far more clear.

Analytic Work

Building on these clearer and more specific understandings of ESC rights and terms, participants also identified a variety of local, national, and international analytic projects which might be undertaken:

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- In countries in transition from warfare to democracy (such as Guatemala and Northern Ireland), national peace accords often include specific requirements for the realization of ESC rights. There, human rights and budget groups could team up to measure and report on the nation's progress on these commitments and report those findings both in the country and to international investigative panels.
 - Human rights and budget groups can link up to analyze where domestic court rulings have placed rights-related budgetary obligations on the government and use budget analysis to assess whether the obligation is being met. Work of this sort would lay the basis for calling on the court to make a further intervention where the government is not fulfilling its obligation. The South African Children's Budget Unit has done pioneering work in this area (see case study at end of this paper).
 - Human rights and budget groups could join forces to issue a national or sub-national report card, measuring the government's progress or lack of progress each year in fulfilling the obligation of "progressive realization" of key ESC rights.
 - Human rights and budget groups could team up to create models for using joint analysis as a basis for filing formal rights violation complaints to various UN and other rights panels empowered to conduct investigations.
 - Budget-related analysis could be built into the five-year reports required under the ICESCR, as a means of making their measurement of compliance much more clear and concrete. Such analysis could also be a major feature of parallel country reports filed by civil society groups.
 - Organizations already undertaking research on specific budget-related issues (housing, health, food) could add an additional dimension to their analysis by bringing in the relevant ESC accords and framing the government's successes and/or failures in terms of its compliance with or violation of those accords.
 - Organizations already undertaking human rights research could use budget analytic techniques to strengthen the specificity of their findings about increases in hunger, failure to use maximum resources, discrimination, etc.
 - Budget analysis could be used as a joint tool for community education and mobilizing around budgets and their relation to ESC rights.

The goal of all these projects and others would be to use the language, knowledge, methods, and perspectives of both movements to create a new and more powerful approach for each.

Capacity Building and Networking

Conference participants also identified a set of additional activities important in order to integrate the lessons and methods of each movement and to facilitate cross-movement collaboration:

- *Material Needs:* Both movements would benefit from a centralized compilation of model studies that link human rights and budgets and briefing papers on how to establish the link on specific issues (health, food). It would be useful to have an easy-to-access compilation of the major human rights accords (including their interpretive comments) along with solid case examples of how they have been used in specific situations (note: compilations of the accords and their interpretative comments are currently available at www.unhchr.ch). It would also be useful to have an accessible “international data bank” on budget information, allowing for an easier compilation of cross-country comparisons. All this could be assembled on a central Web site making it broadly accessible and well known in both fields (note: a preliminary assemblage of this type is being made available at www.international-budget.org.).
- *Training Needs:* Both movements could also benefit from cross training, at the international, national and sub-national levels. Some of this might take place at specially convened sessions for just that purpose. Some could take place by building a human rights component into already-planned budget trainings or a budget analysis component into already-planned human rights trainings. Both movements could also share with one another a schedule of training workshops, institutes and other opportunities where people from one movement could come to learn about the work of the other.
- *Networking:* In addition to formal collaborative projects and trainings, more opportunities are needed for leaders from both movements to come together and better understand each other’s work and to have an exchange of ideas and perspectives. As this happens at the international level, movement leaders need to think about how to spread that same networking out to the regional and national levels as well.

Challenges on the Road Ahead

All marriages come with challenges. The nuptials between the human rights and citizen budget movements are no exception. Here are some that participants anticipated in advance:

Two Competing Styles

"The tension is not one between budget work and human rights work," said John Samuel. "It is between two different styles of advocacy—one incremental that works inside the system and one rooted in resistance that works outside the system." Budget advocacy, when carried out directly with public officials, is about engagement. It deals with the subtleties of tradeoffs and limited resources. It speaks a language of numbers and data. Human rights advocacy makes demands that dwell less in the arena of compromise or polite negotiation. "If human rights activists strike you as being irritating and stubborn," said Ann Blyberg, "that might well be one of their best features." Both styles are legitimate, given the two different political contexts in which each movement works. As these movements look for ways to collaborate, they will need to find a way to reconcile with one another on issues of compromise, message, and methods of exerting public pressure.

Competing Priorities for Limited Public Funds

Similarly, budget work is always constrained by limits on governments' financial resources. No program ever gets all it requests, and there is inevitably competition between one area of social spending versus another. For the human rights movement, with a mission of relentlessly pushing for universal realization of all rights, these limits will be a frustration and point of tension. What happens when budget debates fall into a tradeoff of funding for health clinics versus nutrition programs, or public schools versus public housing? Budget change is incremental change and weighing in on budget debates also means weighing in on the hard choices of which increments matter most.

Government Transparency and Integrity

As noted earlier, both the human rights and citizen budget advocates observed that each field requires government transparency and access to information and decision making, in order to have an influence in the policy making process. In many countries this transparency and access is either extremely weak or non-existent altogether. In some countries outright government corruption is the most difficult and urgent hurdle. Joint efforts on increasing transparency and access were identified as an important feature of any collaborative work between these two movements.

The Absence of Legal Enforcement Mechanisms

Even if these two movements are able to combine forces and develop clearer analyses of the issues and more concrete demands for what governments need to do to address human rights violations, they still suffer from an absence of legal mechanisms to force governments to act. Both movements will have to continue relying on the use of reporting, investigations, and mobilizing public pressure at the domestic and international levels. Some govern-

ments are also so accustomed to impunity that no amount of public pressure or embarrassment seems to move them. A methodic effort will need to be made to identify every pressure point possible (as the Argentines did by threatening the country's World Bank credit line) to force governments to act on ESC rights.

A More Powerful State or a Weaker One?

The human rights movement, especially with its roots in campaigning against government abuses of civil rights, maintains a healthy skepticism about increasing state powers. Budget advocacy and the demand for government action to fulfill ESC rights inevitably pushes in the opposite direction, toward expanding government's reach. Several participants identified this as a potential challenge as the fields begin to connect their work.

Holding Both Movements Accountable

As noted earlier, both movements inevitably need to rely substantially on a cadre of professionals to carry out their work—lawyers, economists, policy analysts, etc. This puts both at risk of not being accountable to the people and communities directly affected by the issues. It also means that both movements are at risk of investing resources in analytic and legal capacity at the expense of grassroots education, popular mobilization and the like. A joining of efforts should seek to correct rather than reinforce this weakness.

The Supplanting of Human Rights Accords with Trade Agreements

The human rights movement traditionally looks to international human rights accords as the primary bodies of international law governing states. More and more, however, international human rights law is, in practice, being treated as secondary to international trade agreements such as North American Free Trade Agreement (NAFTA), the Free Trade Act of the Americas (FTAA), rule-making by the World Trade Organization (WTO) and interventions by the World Bank and IMF. These agreements and institutions, in fact, have much more serious enforcement teeth (trade sanctions, the right of corporations to sue governments, the holding up of foreign credit, etc.) than human rights accords. As several participants noted, these institutions and agreements also have enormous power to force governments to act in ways that have a significant impact on ESC rights. The World Bank's forcing of water privatization, for example, has direct implications for the right to affordable and clean drinking water. Here as well, participants noted a tension—when is it strategic to engage institutions such as the Bank and when is it more effective to challenge them from the outside?

Human rights advocates will not find, in the tools of budget analysis, a “silver bullet” with which they can achieve the realization of human rights overnight. Budget advocates will not find in human rights accords an easy shortcut to making public budgets completely just. However, the Cuernavaca meeting did identify important potential here. At minimum, participants observed, it would benefit groups involved in budget work to study the agreements which bind their governments to standards of economic, social and cultural rights, and to explore how those obligations might be used to their political and legal advantage. Human rights advocates, it was also noted, would be well served to look at the methodology of budget analysis, finding ways in which they might be able to make their monitoring and demands more specific.

But the potential laid out at the meeting is also more than that. Jim St. George of Tax Equity Alliance Massachusetts said he would take back from the conference the idea of using international human rights law as a basis for a report on access to food. Helena Hofbauer of FUNDAR in Mexico observed that the human rights-budgets link was now no longer just a “loose idea” but a real open door for concrete projects. Lisa Veneklasen, of The Asia Foundation concluded, “The link between budgets and human rights work had been happening intuitively, now we’ve begun to make that link strategically.”

Thoughtful collaboration between these two movements could create a new approach to this work that has a legal basis more certain, a moral voice more clear, and an analysis more disciplined than either working alone. There are lessons in this for advocates, grassroots groups, sympathetic public officials, funders, and others. In such a collaboration, both movements will need to think carefully about what projects will be most strategic and powerful. In the end what the advocates who undertook this exploration found was that, while they are and will continue to be two separate movements, the separate paths on which they walk still lead to a common mountaintop—justice.

NEW YORK CITY

"HUNGER IS NO ACCIDENT"^{xxiv}

In 1996 the U.S. government enacted the "Personal Responsibility Act," a sweeping reform of the nation's public welfare laws, which had an especially major impact on the federal Food Stamp Program, the nutritional assistance plan for the poor. Twenty-seven billion dollars were cut from the program nationwide. Legal immigrants were eliminated from eligibility. "Able bodied" recipients who could not find a job, were limited to three months of benefits out of a three-year period.

Four years later, in New York City, the Welfare Reform and Human Rights Documentation Project analyzed the impacts of welfare reform and looked at those effects in light of international human rights accords. In a report entitled, "Hunger is No Accident," the project found that cuts in benefits and bureaucratic barriers to access put the US, and the city and state of New York, in direct violation of some of the most important provisions of international human rights law.

According to the report, the city created deliberate barriers to make it more difficult for eligible families apply for benefits—by not providing the required forms, not notifying applicants of their eligibility rights, and by forcing applicants to attend appointments scheduled for the same time in different locations. The Project found that these actions put the city in direct violation of international laws forbidding governments from taking, "political or other measures destroying existing access [to adequate food] by vulnerable populations." In essence, New York City was doing with bureaucracy what governments in other parts of the world might do by seizing food relief shipments.

The Project also found discrimination against non-English speaking applicants, a violation requiring immediate remedy under ICESCR and the Convention on the Rights of the Child (an accord that had been formally endorsed by the city council). The Project also cited an ICESCR finding that, "when any significant number of individuals are deprived of essential foodstuffs," it constitutes a "prima facie" or assumed violation of the agreement. The group juxtaposed that citation against the US government's own statistics of 10 million people living in hunger nationwide, again another violation.

One of the Project's main goals for their study was to help the people directly affected to understand that their rights were being violated and to give them a public voice. The Project undertook a survey of 212 applying families, often including their words directly in their study:

I won't reapply now [for welfare benefits] because my child is sick and going into surgery, and I don't have time to spend another 10 days in somebody's office trying to get financial help.

"The people directly affected understood the human rights connection more than anyone," said the Ramona Ortega of the Urban Justice Center.

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MEXICO^{xxv}

AN ALARMING GAP IN PUBLIC HEALTH CARE A VIOLATION OF INTERNATIONAL HUMAN RIGHTS

With a focus on the rights of women, children and the poor, the Mexican NGO, FUNDAR, has undertaken a variety of important investigations into the Mexican budget, most recently zeroing in on the alarming gap between rich and poor in the provision of public health care. In doing so, FUNDAR created a powerful model of blending budget analysis with international human rights law.

In a report entitled, "Health Care: A question of Human Rights, not Charity," FUNDAR analyzed the national health budget, documenting enormous inequities between those covered by the country's premium public health program (covering mainly people in the wealthier urban areas of the country) and those left to fend under the patchwork of other public health services (chiefly the indigenous residents of poorer rural areas). The report found that, on a per person basis, rural Mexicans received less than half the health care resources of the urban residents covered by the national health program, and in some cases received less than a fourth. FUNDAR also found that those inequities translated directly into widely different health outcomes—child death rates 58 percent higher in the underserved areas and maternal death rates three times as high.

Linking that gap to international human rights law, FUNDAR cited the Constitution of the World Health Organization (WHO):

The enjoyment of the highest attainable standard of health is a fundamental right of every human being, regardless of race, religion, political ideology, social or economic condition.

FUNDAR also cited the International Covenant on Economic Social and Cultural Rights (ICESCR), which expressly prohibits governments from discrimination in access to ESC rights, not only as a matter of public policy but also as measured by actual health outcomes. The health care discrimination documented by FUNDAR's not only violates the ICESCR but, as a discrimination violation, it is one requiring an immediate remedy by the Mexican government.

"We hope the study will lead to an independent evaluation of the progress the government is making on ESC rights the next time Mexico has to submit its report to the United Nations," says the report's lead author, Helena Hofbauer of FUNDAR.

For more information on the FUNDAR study contact Helena Hofbauer at: helena@fundar.org.mx.

ARGENTINA^{xxvi}

GOING OVER THE GOVERNMENT'S HEAD TO PROTECT A NATIONAL NUTRITION PROGRAM

In 1998, facing a national economic crisis, the government of Argentina asked for and received a \$2.5 billion loan from the World Bank. In its granting of the loan (to be paid in a series of payments over time), the Bank attached a series of "structural adjustment" strings, including major reductions in public expenditures. Hoping to prevent the kind of reductions in social spending that have made its loan programs so controversial, the Bank included a clause obligating the government to maintain a minimum allocation of \$680 million for a specific set of social programs—including nutrition programs.

Shortly afterwards the Argentine government set out to implement a numbers game at the direct expense of one of the country's most important nutrition projects, the "Garden Program"—an \$11 million per year project which provided seeds and support for urban community gardens feeding more than 2.7 million people. The government slashed funding for the program by more than 60 percent, reallocating those funds to other projects that could still qualify as social spending (maintaining the \$680 million minimum in the Bank agreement) but primarily oriented toward providing jobs for the incumbent party's political supporters heading into national elections.

When beneficiaries of the Garden Program began organizing to fight the cut, they asked for help from the Centro de Estudios Legales y Sociales (CELS). After the government refused to budge, CELS began researching the government's loan agreement with the Bank. CELS discovered that nutrition assistance was specifically mentioned as one of the areas the government was obligated to maintain and filed a formal complaint with the Bank's Inspection Panel in Washington, charging the government with violating the loan agreement. The potential consequences of such a violation included a hold on the Bank's next scheduled payment, a threat with major economic repercussions for the country and the government and which CELS exploited by highlighting that threat in an article in a national business newspaper.

Even a possibility of problems with the loan was enough to force the government to act. Less than a month after CELS filed its World Bank petition, the government restored an additional \$4.5 million to the Garden Program. CELS effectively went over the government's head to force it to act in a way it never would have otherwise. Nevertheless, Victor Abramovich of CELS points out, "Even though the social guarantee clauses in the Bank agreement were of enormous value [in creating pressure on the government] they are far from sufficient to compensate for the deep problems provoked by the policies imposed by the Bank itself."

For more information on the CELS campaign to save the Garden Program contact: Victor Abramovich at: vabramovich@cels.org.ar.

SOUTH AFRICA^{xxvii}

THE SOUTH AFRICA CHILDREN'S BUDGET

The long years of apartheid in South Africa left an especially harsh legacy for the country's children. According to the South African analysis and advocacy group, IDASA, 60 percent of all children in the nation (10.5 million) live in poverty. They suffer from inadequate health care, nutrition, housing, and education, among other basic needs. In 1994, following the end of the apartheid era, South Africa dedicated itself to addressing the poverty and inequality suffered by the nation's children. It included specific obligations to the rights of children in the South African constitution and, in 1996, it ratified and bound itself to the provisions of the Convention on the Rights of the Child.

In 1995 IDASA founded its Children's Budget Unit, specifically to analyze and measure, on an annual basis, the progress being made by the South African government in the realization of the children's rights to which it is obligated by international agreement, national law, and relevant court rulings. The Project then disseminates that analysis broadly, through newspaper articles, short briefing papers, an annual book, and workshops for civil society groups, members of parliament, and the executive branch.

With a particular focus on basic education and social security (income assistance) rights for children, IDASA is also attempting to break new ground in asserting specific meaning to the often-vague standards of "progressive realization" and "full use of maximum available resources." In terms of "progressive realization" IDASA is investigating whether a sufficient proportion of the overall aid available is going to "the poorest of the poor" and what kinds of services are getting top priority. On the "maximum resources" issue, IDASA presses not only for more spending but also for "better spending," looking not just at how much money is allocated but whether that money is spent efficiently and with what actual outcomes for children.

According to Judith Streak, lead researcher with IDASA's Children's Budget Unit, the task of holding the government accountable to its legal obligations is made more difficult by the vagueness of those obligations. "Broadly speaking," says Streak, "to realize the socio-economic rights of children, the government has to spend more and spend more effectively and efficiently over time on programs in health, education, welfare, and housing—for as long as there is a need and there are resources available to do so." IDASA's efforts to define human rights obligations more specifically and to measure, in a concrete way, the government's progress, mirrors the challenge faced by all human rights groups to move rights from being promises on paper to being reality in people's lives.

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- ⁱ FIAN International Secretariat, "Economic Human Rights Their Time has Come" (Heidelberg, Germany: FIAN International Secretariat, 1995), 19.
- ⁱⁱ Ibid., 20.
- ⁱⁱⁱ Ibid., 62.
- ^{iv} Cybele Fox, "Hunger is No Accident" (New York, Welfare Reform and Human Rights Documentation Project, 2000), 14-15.
- ^v Ibid.
- ^{vi} See UN Committee on Economic, Social and Cultural Rights, General Comment 3: "The Nature of States Parties' Obligations," par. 9 and, Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, par. 11, 15a and 15e.
- ^{vii} See UN Committee on Economic, Social and Cultural Rights, General Comment 3: "The Nature of States Parties' Obligations," par. 9.
- ^{viii} See Ibid., par. 10.
- ^{ix} Quoted in Cybele Fox, 30.
- ^x Quoted in Helena Hofbauer, Gabriel Lara, and Barbara Martinez, "Health Care: A Question of Human Rights, not Charity" (Mexico City, FUNDAR, 2002), 4.
- ^{xi} FIAN International Secretariat, "Economic Human Rights", 68.
- ^{xii} Ibid., 65.
- ^{xiii} Ibid., 47.
- ^{xiv} Victor Abramovich, "The Social Protection Clauses in the World Bank Structural Adjustment Loans: The Case of the Garden Program Nutrition Plan" (Buenos Aires, Centro de Estudios Legales y Sociales, 2002), 20.
- ^{xv} FIAN International Secretariat, "Economic Human Rights", 53.
- ^{xvi} This section owes generously to, Warren Krafchik, "Can Civil Society Add Value to Budget Decision Making ?" (Washington, DC, The International Budget Project, 2002).
- ^{xvii} Ibid., 1.
- ^{xviii} Ibid., 19.
- ^{xix} Ibid., 1.
- ^{xx} Ibid., 16.
- ^{xxi} Victor Abramovich, "The Social Protection Clauses", 1.
- ^{xxii} International Covenant on Economic Social and Cultural Rights, Article 2.1
- ^{xxiii} Hofbauer, et al., "Health Care", 17.
- ^{xxiii} International Covenant on Economic Social and Cultural Rights, Article 2.1
- ^{xxiv} Hofbauer, et al., "Health Care", 17.
- ^{xxiv} This case study is drawn from, Fox, "Hunger is No Accident."
- ^{xxv} This case study is drawn from, Hofbauer, et al. "Health Care".
- ^{xxvi} This case study is drawn from, Abramovich, "The Social Protection Clauses".
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