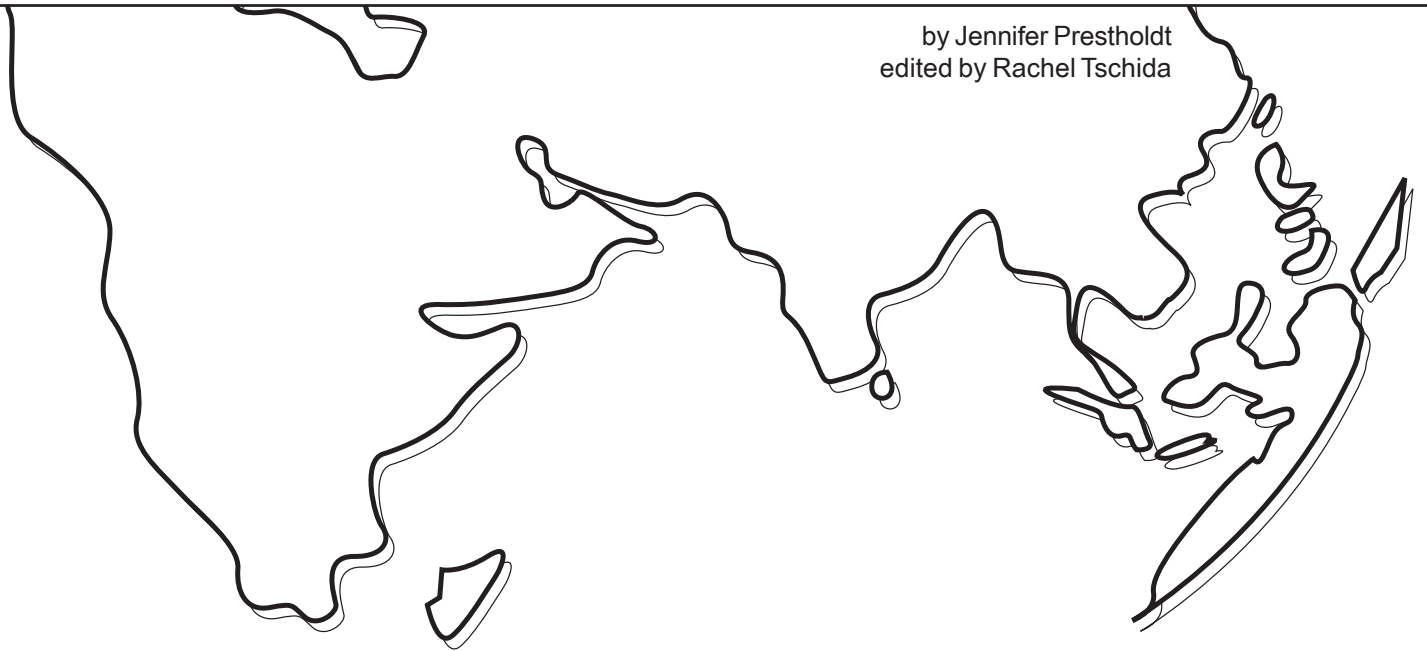


Familiar Tools, Emerging Issues

Adapting traditional human rights monitoring to emerging issues

by Jennifer Prestholdt
edited by Rachel Tschida



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Notebook Series Editor

Liam Mahony

Copyediting

Erin Flannery

Layout

Tricia Cornell

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4	Author biography
5	Letter from the New Tactics project manager
6	Introduction
6	Why monitor human rights?
7	Case study #1: Domestic violence in Bulgaria
8	How do you monitor human rights?
10	Case study #2: Battered Immigrant Women Documentation Project
12	Transferability
13	Case study #3: Human rights monitoring of transitional justice
15	Conclusions



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www.cvt.org, www.newtactics.org

Jennifer Prestholdt

Jennifer Prestholdt is an experienced human rights lawyer who currently serves as the deputy director of Minnesota Advocates for Human Rights. Ms. Prestholdt holds a bachelor's degree in political science from Yale and a master of arts in law and diplomacy from Tufts University's Fletcher School, where she studied international human rights law and international refugee policy. After graduating cum laude from the University of Minnesota Law School in 1996, Ms. Prestholdt practiced asylum law for five years as refugee and immigrant program director of Minnesota Advocates for Human Rights. Additionally, she has worked on refugee and asylum issues for the United Nations High Commissioner for Refugees in Geneva, Switzerland, and has also worked for the Reebok Human Rights Program and the U.S. Member of the United Nations Subcommittee on Prevention of Discrimination Against and Protection of Minorities. As Minnesota Advocates' deputy director, she assists in fundraising for and directing organizational operations. Ms. Prestholdt also supervises the development and administration of special projects dealing with emerging human rights issues, including the International Human Rights Monitoring Project. Ms. Prestholdt is an adjunct faculty member at the University of St. Thomas School of Law, where she teaches International Human Rights Law.

Minnesota Advocates for Human Rights

Minnesota Advocates for Human Rights was founded in 1983 by a group of Minnesota lawyers who recognized an opportunity to promote and protect human rights in the United States and worldwide in their community's spirit of social justice. Minnesota Advocates' unique approach to human rights advocacy engages attorneys, educators, public health professionals and other experts as volunteers to provide effective and broad-based services to clients and partner organizations. This approach not only leverages a small staff and limited resources, but also helps to build a constituency of support for human rights in the United States.

The mission of Minnesota Advocates is to implement international human rights standards to promote civil society and reinforce the rule of law. Minnesota Advocates has received international recognition for a broad range of innovative programs to promote human rights and prevent the violation of those rights. It is a nonprofit, volunteer-based organization that investigates and exposes human rights violations; represents refugees who are human rights victims; trains and assists groups that protect human rights; and works through education and advocacy to engage the public, policy-makers and children in dialogue about human rights. Minnesota Advocates holds Special Consultative Status with the United Nations.

Contact Information

Minnesota Advocates for Human Rights
650 Third Avenue South, Suite 550
Minneapolis, MN 55402-1940 USA
Tel. +1 612 341 3302
Fax +1 612 3412971
hrights@mnadvocates.org
www.mnadvocates.org



September 2004

Dear Friend,

Welcome to the New Tactics in Human Rights Tactical Notebook Series. In each notebook a human rights practitioner describes an innovative tactic that was used successfully in advancing human rights. The authors are part of the broad and diverse human rights movement, including nongovernment and government perspectives, educators, law enforcement personnel, truth and reconciliation processes, women's rights and mental health advocates. They have both adapted and pioneered tactics that have contributed to human rights in their home countries. In addition, they have used tactics that, when adapted, can be applied in other countries and other situations to address a variety of issues.

Each notebook contains detailed information on how the author and his or her organization achieved what they did. We want to inspire other human rights practitioners to think tactically — and to broaden the realm of tactics considered to effectively advance human rights.

Minnesota Advocates for Human Rights uses traditional human rights monitoring methods to document human rights abuses, but in this notebook we will learn how the group has also made a practice of adapting this methodology to emerging human rights issues. Minnesota Advocates has identified and developed practical and sustainable strategies for adapting human rights monitoring methods to address domestic violence (in Eastern Europe and the U.S.), child survival (in Mexico, Uganda and the U.S.) and transitional justice (in Peru).

The entire series of Tactical Notebooks is available online at www.newtactics.org. Additional notebooks are already available and others will continue to be added over time. On our web site you will also find other tools, including a searchable database of tactics, a discussion forum for human rights practitioners and information about our workshops and symposium. To subscribe to the New Tactics newsletter, please send an e-mail to newtactics@cvt.org.

The New Tactics in Human Rights Project is an international initiative led by a diverse group of organizations and practitioners from around the world. The project is coordinated by the Center for Victims of Torture and grew out of our experiences as a creator of new tactics and as a treatment center that also advocates for the protection of human rights from a unique position — one of healing and reclaiming civic leadership.

We hope that you will find these notebooks informational and thought-provoking.

Sincerely,

A handwritten signature in cursive script that reads "Kate Kelsch".

Kate Kelsch

New Tactics Project Manager

Introduction

With the help of hundreds of volunteers, Minnesota Advocates has monitored human rights conditions and produced more than 50 reports documenting human rights practices in more than 25 countries. Minnesota Advocates uses traditional human rights monitoring methods to document human rights abuses, but has made a practice of adapting the methodology to address cutting-edge human rights issues. The findings on violence against women in Mexico, Nepal, Eastern Europe and the Commonwealth of Independent States have been published in reports that include an analysis of each country's legislation related to women's rights and the local law enforcement system, as well as recommendations on how to bring laws and practice into conformity with international human rights obligations. We have recently adapted the methodology used overseas to help us investigate and document the difficulties that refugee and immigrant women in our own community face in obtaining services and protection from domestic violence.

Minnesota Advocates also used traditional human rights monitoring methods to document excessive and preventable child mortality as a human rights violation in three countries, each representing different levels of development: the United States, Mexico and Uganda. We then published a report, *Global Child Survival: A Human Rights Priority*, using these case studies to illustrate that certain groups of children, minority children for example, suffer systematic violations of their rights. Underlying economic and social factors linked to child survival must be addressed in order to effectively combat high rates of preventable child deaths.

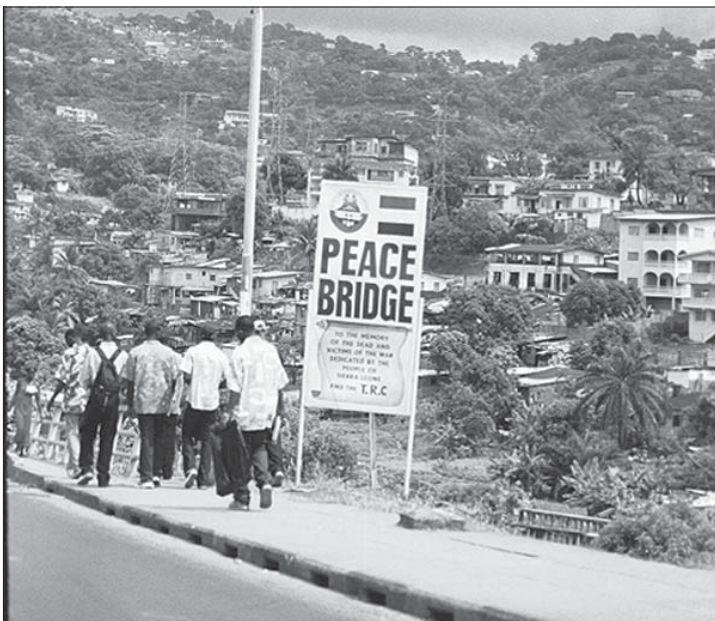
Most recently, we have adapted our methodology to monitor transitional justice mechanisms and processes. Countries such as Peru and Sierra Leone are in the process of transitioning from violence and repression to peace, justice and reconciliation; the growing momentum for transitional justice marks a new era in human rights work. More and more frequently, that shift involves confronting past human rights abuses and making institutional reforms in order to protect human rights. Human rights monitoring is one way to help ensure that transitional justice processes move forward.

Using this tactic of monitoring and reporting, we feel that we have been able to make some significant long-term improvements in human rights. This notebook will discuss how Minnesota Advocates identifies and develops practical and sustainable strategies for adapting human rights monitoring methods to emerging human rights issues. By documenting the tactic in this notebook, we hope to spark some creative applications of common human rights monitoring methods in order to improve human rights in different contexts.

Why monitor human rights?

Human rights monitoring is one of the most effective tools that a nongovernmental organization like Minnesota Advocates can use to pressure governments that are violating human rights to do something (such as passing a law) or to stop doing something (such as torture in police custody). In its most direct application, monitoring can be used to assist an individual victim to obtain release from unlawful detention or pursue a domestic legal action. More generally, monitoring is used to encourage governments to adopt and implement international human rights standards.

Information obtained through monitoring can be effectively used in a variety of different ways. It can be used to raise public awareness through educational campaigns, as well as to apply direct pressure on a government through media attention and individual action. NGOs frequently bring the monitoring results to the attention of policy-makers, academics and business leaders—both in the country and in the international community. Monitoring results are now routinely presented to the United Nations and regional human rights bodies, and to quasi-government organizations like truth and reconciliation commissions and criminal tribunals. Human rights monitoring can also provide valuable early warnings in situations of escalating conflict.¹



The Sierra Leonean Truth and Reconciliation Commission dedicated this Peace Bridge in Freetown.

¹ See Diller, Janelle, *Handbook on Human Rights in Situations of Conflict* (Minnesota Advocates for Human Rights, 1997).

Case Study #1: Domestic violence in Bulgaria

Violence against women in the family has only recently been recognized as a priority for international action. In the late 1980s and early 1990s, a number of factors (including academic writing on gendering human rights, NGO organizing around the Vienna Declaration and international outrage over the systematic use of rape and sexual abuse in the former Yugoslavia) coalesced into a growing movement to recognize the human rights of women.

Since 1993, Minnesota Advocates has been adapting traditional human rights fact-finding methods to document abuses of women's human rights such as domestic violence, rape, employment discrimination, sexual harassment in the workplace and trafficking in women and girls for commercial sexual exploitation. While human rights fact-finding and reporting on gender-related human rights issues is now common, at the time it was rare to monitor human rights abuses committed by private actors when the government could not or would not protect the victims.

In 1995, at the invitation of women's groups in Bulgaria, Minnesota Advocates sent a delegation to investigate and document domestic violence. After conducting the fact-finding mission, Minnesota Advocates used a human rights framework to analyze the Bulgarian legal system's response to domestic violence. Minnesota Advocates' 1996 *Domestic Violence in Bulgaria* report documents a legal system where police regularly failed to respond to calls from domestic violence victims, prosecutors categorized domestic violence as a "family matter," and judges did not hold offenders accountable for their violent crimes. Furthermore, there were no shelters and few services for victims of domestic violence.

After the report was published, Minnesota Advocates partnered with human rights and women's groups in Bulgaria to train legal professionals and advocates to better protect the safety of battered women. In 1996, Minnesota Advocates worked with two NGOs to develop a project that used the human rights monitoring methodology we developed to do additional research in Bulgaria. The report was a two-year project to:

- (1) document the conditions for battered women in Varna and Plovdiv, Bulgaria;
- (2) document sex discrimination and sexual harassment in the workplace in Bulgaria;
- (3) conduct research on the treatment of women in the media; and
- (4) teach women's human rights in two Bulgarian high schools.

Minnesota Advocates worked with its partner organizations to implement each phase of the project.

The research from these projects was also used by Bulgarian NGOs to argue for better laws to protect women from domestic violence. Minnesota Advocates consulted with the Bulgarian Gender Research Foundation in drafting a new civil order for protection law that was introduced in the Bulgarian Parliament in April of 2003. One of the first of its kind in the region, the law allows battered women to seek civil orders from the court that direct abusers to stay away from victims. Modeled after Minnesota's civil order for protection laws, the Bulgarian law would provide for immediate protection to victims of domestic violence without requiring that they pursue divorce or criminal remedies against their abusers.

Minnesota Advocates staff and volunteers visited Bulgaria in May of 2003 to meet with parliamentarians and journalists about the proposed law. Interviews with the press focused on the proposed law and how our similar law has been implemented in Minnesota. Minnesota Advocates staff and volunteers returned to Bulgaria in November 2003 to provide training for police and judges on the proposed domestic violence law and on the dynamics of domestic violence.

The Bulgarian law passed on its first reading before the Bulgarian parliament on June 30, 2004, and is expected to become law following its second reading in the fall of 2004. The law is a landmark achievement for Bulgarian women and for women throughout the region. It is also an example of the effective use of



Minnesota Advocates Women's Program staff and volunteers with Bulgarian women's advocates and Bulgarian legislators.



human rights monitoring, as well as a successful and productive partnership between human rights advocates across borders. For one of the Minnesota Advocates volunteers involved with the project, working on domestic violence issues in Bulgaria was especially poignant. She felt that she was reliving her history. Almost three decades earlier, she had worked to get a civil order for protection law passed in Minnesota, only the second in the United States. "So much of what is happening in Bulgaria happened in Minnesota 25 years ago," she said.

How do you monitor human rights? HUMAN RIGHTS MONITORING 101: THE BASICS OF MONITORING, FACT-FINDING AND DOCUMENTATION

Human rights monitoring is a broad term that describes the active collection, verification and immediate use of information to address human rights problems.² Monitoring generally includes on-site fact-finding and observation to determine whether a human rights violation exists, documentation of the problem and (frequently) recommendations for how to remedy the situation and bring it into compliance with international human rights norms. Human rights monitoring methods involve gathering information about incidents or government policies; observing trials, elections, demonstrations and public hearings; visiting sites such as prisons and refugee camps; interviewing witnesses, victims, advocates and government authorities; collecting evidentiary material or data; evaluating the evidence and recording conclusions of fact. In addition to fieldwork, human rights monitoring methodology generally includes reviewing laws, media reports, documents and correspondence. A written report of the findings may also be

produced, which can then form the basis for education, advocacy or other kinds of further action.

Human rights monitoring is carried out by several different kinds of international organizations:

- (1) the United Nations and other intergovernmental organizations such as the Organization of American States, the Organization for Security and Cooperation in Europe and the International Labor Organization.
- (2) governmental organizations such as national human rights institutions (human rights commissions or ombudsman); and
- (3) nongovernmental organizations.

Each organization within each category undertakes monitoring based on its own particular mandate. Although they use the same methods, the scope of the monitoring can vary greatly in terms of rights, target groups and geography. Monitoring can be and is used effectively both very narrowly (the case of an individual victim) and very broadly (the general human rights situation in a country).

Fact-finding is the process of drawing conclusions of fact from the monitoring activities.³ A narrower term than monitoring, fact-finding involves gathering the information necessary in order to identify and establish the facts relevant to human rights abuses. Care should be taken throughout the fact-finding process to corroborate all evidence.

Sources of human rights information include primary sources (victims, witnesses, evidentiary material, etc.); government agencies and national human rights institutions; human rights and other NGOs; social service/torture treatment providers; media; academics; treaty monitoring and other UN bodies; international governmental organizations; and foreign government officials. Fact-finding can be done both on-site (at the location of the alleged violation) and off-site.

Interviewing is the most common fact-finding method. Effective human rights monitoring requires skill in preparing for and conducting fact-finding interviews, as well as in assessing credibility. In addition, special preparation and care must be taken with interviewing individuals with particular characteristics such as victims of torture and gender-based violence, children, and indigenous persons.⁴

CHARACTERISTICS OF MONITORING:

- It is carried out over a long period of time.
- It involves collecting or receiving as much data as possible.
- It means close observation of the situation, usually through constant or periodic examination or investigation and documentation of developments.
- Standards or norms are used as a reference to determine what is wrong with the situation.
- Tools or instruments are used in the process of monitoring.
- The product of monitoring is usually a report about the situation.
- The report embodies an assessment of the situation which provides a basis for further action.

From Guzman, Manual and Bert Verstappent, *What is Monitoring* (vol. 1) *Human Rights Monitoring and Documentation Series* (HURIDOCS, 2001) p. 3.

2 United Nations Office of the High Commissioner for Human Rights, *Training Manual on Human Rights Monitoring* (Professional Training Series No. 7), New York and Geneva, 2001, p. 9.

3 Ibid.

4 For a good overview on interviewing, see "Chapter VII: Interviewing" in the *United Nations Training Manual on Human Rights Monitoring*, New York and Geneva, 2001. It is available online in English and Spanish at the University of Minnesota Human Rights Library <http://www1.umn.edu/humanrts/monitoring/index.html>



ON-SITE FACT-FINDING GENERALLY INVOLVES A COMBINATION OF:

- Interviewing individuals with information
- Visual inspection
- Observation (watching events such as trials)
- Review and collection of relevant documents
- Taking pictures or making audio/visual recordings
- Forensic examination

Fact-finding also involves collecting and reviewing documentary evidence. Documentary sources could include such primary sources as: laws, regulations or other government documents; affidavits; letters; trial transcripts; court records; police records; prison records; videotapes and photographs; medical records and transcripts of interviews. Additional documentary sources could include newspaper articles and media reports, as well as books and other written resource materials.

Documentation involves recording the results of the fact-finding activities to preserve the information for future use. Human rights documentation can be used for human rights education, standard-setting, direct assistance to victims, prosecuting human rights abusers and establishing historical records. While human rights documentation has traditionally been done by neutral, outside organizations, increasingly it is being used by victims to document the human rights abuses that they experience. This participatory documentation can also function as an effective tool to educate victims about their rights and organize their action.

The form and use of a **human rights report** may vary, but the goal of a good report is to present a summary of the information obtained and to set out recommendations for possible actions.

MINNESOTA ADVOCATES' STRATEGIC USE OF HUMAN RIGHTS MONITORING

Each year, dozens of individuals and organizations ask Minnesota Advocates to monitor human rights problems in Minnesota and around the world. As a small NGO with limited resources, Minnesota Advocates must make strategic decisions about how and when to use this tactic. Our decisions are in part based on our unique operating principles, which include using professional volunteers to carry out human rights work and building partnerships with in-country and indigenous human rights groups. Generally, Minnesota Advocates undertakes new projects at the invitation of an in-country partner organization. The partner organization must be able to articulate how human

rights monitoring at the local level will help them. Minnesota Advocates must also be able to identify how putting the issue in a human rights framework will help to make the case at the local, national and international level.

In order to facilitate the decision-making process, Minnesota Advocates has developed specific guidelines for projects and missions to evaluate the appropriateness of the project and its congruency with Minnesota Advocates' mission, the conditions of implementation and the anticipated results. Careful consideration of these issues allows us to define the scope and authority of the mandate prior to committing to a new project. These considerations may also be helpful to other groups in deciding whether to undertake new projects.

In considering the congruency of the project's purpose with the ideals of Minnesota Advocates, we consider:

- What is the purpose of the project? Why is it appropriate to the objectives of Minnesota Advocates?
- Specifically, how will the project: (1) provide assistance to individual victims of human rights violations; (2) contribute to changing those conditions that give rise to the violations; or (3) help to improve conditions or create an environment conducive to human rights.
- How will this project promote a better understanding of human rights and human rights conditions within the human rights community and for the citizenry of Minnesota?
- What are the specific goals and objectives of this project? Are they well articulated? Are the specific goals consistent with the strategies of Minnesota Advocates? Will a better understanding of the human rights situation promote pressure to improve it?

Minnesota Advocates also considers the appropriateness of the proposed project by asking:

- Is this project timely in relation to events surrounding the violation?
- Have other human rights organizations undertaken a similar project? If so, how will the current project add to and expand on previous work?
- Will Minnesota Advocates be required to make judgments on non-human rights issues, and if so, to what extent is this appropriate? Do Minnesota Advocates have the expertise to make such judgments? What are the possible ramifications of such judgments?
- How can funding be achieved without jeopardizing the impartiality and independence of this mission?
- Do those working on the project have the ability to remain objective?



In determining the conditions of implementation, Minnesota Advocates determines:

- What is the present status of information available about the country or subject that would suggest a successful project? Is this information reliable?
- Who will take part in this project and what are their qualifications? What is the budget for this project/mission? Who will provide funds and how much? How much will Minnesota Advocates contribute?
- How much of Minnesota Advocates staff time will this project require, and what type of staff would be needed?

The proposed project's results are also considered:

- What are the anticipated measurable results of this project? How will the results be evaluated? Will there be a public report?
- What other tangible products will result from the project?
- What further investigation or inquiry is recommended and is it feasible? What other follow-up steps should be taken by the organization?
- What further public education and advocacy efforts are important to reach the goals of the project?

When the proposed project involves an overseas fact-finding trip, Minnesota Advocates also specifically considers:

- Are there competent volunteers available to participate in the mission who can speak the relevant languages, meet the entrance requirements of the receiving nation, and who have a deep understanding of the country, including its people, history government structure, culture and customs?
- Are there reliable contact persons in the country? Are sources credible?
- What significant risks might arise for the mission delegates and the people they contact? How will these risks be minimized? Are the people involved with this project willing to accept these risks?
- Will a report and recommendations be produced for the government of the mission country or other international institutions? Are the recommendations likely to be accepted?
- If a public report is to be produced, what efforts will be undertaken to coordinate with already existing documentation and/or other work being done to ensure that efforts are not duplicated?

Case study #2: The Battered Immigrant Women Documentation Project

DECIDING TO USE THE TACTIC IN OUR OWN COMMUNITY

While human rights monitoring of gender-related human rights issues is now a common practice throughout the world, it has rarely been used to document women's human rights within the United States. In 2002, Minnesota Advocates decided to adapt the human rights methodology that we have used in other countries to investigate and document the experience of immigrant women in our own community in gaining protection from domestic abuse and in accessing legal, medical and other services.

The initial request to monitor the issue and publish a report came from the Minnesota Immigrant and Refugee Battered Women's Task Force, a coalition of advocates, shelter providers and legal service organizations that Minnesota Advocates has collaborated with since 1998. They argued that a human rights approach elevates the issue to an international standard—something that is very helpful to them in making arguments for change. Additionally, although domestic violence is a serious problem for women of all backgrounds, refugee and immigrant women are particularly vulnerable to certain forms of abuse and face unique problems in gaining protection from violence. Research and documentation would be an important first step in working to eliminate violence and to ensure that victims are provided with access to necessary services.

In determining whether to undertake this project, Minnesota Advocates considered the appropriateness of the project and its congruency with Minnesota Advocates' mission. The purpose of the Battered Immigrant Women Documentation Project was defined as using human rights monitoring methods to identify the barriers that battered immigrant women encounter in seeking protection, as well as the models or programs that have been particularly effective in addressing the specific needs and concerns of immigrant women in the local community. Given Minnesota's quickly growing refugee and immigrant population, as well as state and county budget cuts, the issue was very timely. Further, no other human rights organization was doing similar work. This project, which represents a continuation of Minnesota Advocates' use of human rights monitoring methods to implement international human rights standards and encourage government compliance with international law, would also promote a better understanding of human rights conditions in Minnesota and strive to effect a positive change in these conditions for the benefit of battered immigrant and refugee women.

Minnesota Advocates also considered the conditions of implementation and the anticipated results of the

proposed project. The expertise and experience of Minnesota Advocates staff and volunteers in both gender-based human rights and immigration policy made this an ideal project to implement in our community. In addition, it was possible to undertake the project with minimal funding because staff time was leveraged by volunteers and a legal fellow with outside funding. Because of budgeting constraints, however, the scope of the project was limited to the Minneapolis/St. Paul metropolitan area.

The anticipated result of the project was a report that: (1) evaluates the government's compliance with its obligations under international human rights law to protect women from domestic violence and to ensure that victims are provided with adequate, functional and effective assistance, and (2) articulates program and policy recommendations. The report could then be used as a tool to advocate for legislative changes and raise awareness about these issues.

ADAPTING THE TACTIC

A human rights methodology provides both a framework for interviews and report writing, as well as a focus on government accountability. Using a human rights framework in this context provides a way to articulate the government's responsibility to ensure the rights of women to security, equal treatment and equal remedy under the law, as well as a way to identify the government's failure to comply with the law.

The Battered Immigrant Women Documentation Project was implemented in the following steps:

Step one: Determine what information is needed and how to obtain it. The goal of the fact-finding was to gather the information necessary to objectively evaluate the government's compliance with its international obligations to protect refugee and immigrant women from violence. An initial research period involved outreach to local organizations that work on issues related to women, refugees and immigrants, and specifically women immigrants. As a result of this preliminary research, Minnesota Advocates staff created a list of potential individuals and organizations to interview. While some categories of individuals to be interviewed for the Battered Immigrant Women Project were the same as the categories interviewed in connection with Minnesota Advocates overseas fact-finding projects (attorneys, judges, police), others were specifically chosen because of this project (immigration officers, translators, social service providers). Staff also identified the court records and other documentation that they would need to review.

Step two: Recruit and train volunteers. Minnesota Advocates recruited nine volunteers to form the fact-finding team. Most of the volunteers were lawyers, and several had participated in Minnesota Advocates missions conducting overseas fact-finding on women's

issues. Others were new to fact-finding and not in a position to travel overseas, but excited to be able to do this human rights work within Minnesota. Volunteers and staff attended a training session that covered human rights fact-finding, domestic violence and immigration issues. In addition, community members and domestic violence advocates were recruited to serve on the project's Steering Committee.

Step three: Conduct fact-finding interviews. Minnesota Advocates staff and interns set up interviews for members of the fact-finding team with a wide cross-section of individuals in order to develop a comprehensive understanding of the issues faced by battered refugee and immigrant women. More than 130 interviews were conducted with legal professionals (attorneys, prosecutors, judges, immigration officers, child protection workers); police officers, physicians and other health professionals; refugee and immigrant groups; translators; and social service providers. In addition, the fact-finding team conducted focus groups with battered women's advocates. Finally, the team conducted fact-finding interviews with refugee and immigrant women survivors of domestic violence who were identified to the team and introduced to the project by shelter advocates.

Throughout the information gathering and evaluation stages, information was continually cross-referenced with and verified through information from other sources to ensure the reliability of the data. Information gathered through interviews and used in the final report is anonymous—names and organizations are omitted and sources are identified by a generic job description only. Research records are kept in the Minnesota Advocates office; only project staff and volunteers have access to these records.

Step four: Review records and other written materials. The team collected and reviewed extensive documentation related to the battered refugee and immigrant women. Team members reviewed official records, including civil and criminal court files. The team also reviewed health education and other relevant written materials.

Step five: Draft the report. At the conclusion of the fact-gathering stage of the project, Minnesota Advocates produced a report that documents the findings and proposes recommendations for changes to be made in the areas of legislation, policy and law enforcement. The report writing team involved two staff members and three attorney volunteers who had themselves been involved in the interview stage of the project. The methodology uses limited comparisons between cases involving refugee/immigrant and nonimmigrant victims. These comparisons are used solely to highlight, in specific instances, the ways in which the government has failed to ensure the responsiveness of legal and social services to the par-





As part of the Battered Immigrant Women Documentation Project's education and advocacy efforts, Minnesota Advocates provided training on immigration law at the Central Minnesota Conference on Domestic Violence and Immigration (April 2004).

ticular needs of refugee and immigrant victims of domestic violence. International law is the standard used, rather than the extent of the government's protection of and provision of services to nonimmigrant women. The project's Steering Committee guided the report drafting process, reviewed and provided feedback on the report, and made recommendations for final follow-up interviews. The Steering Committee also provided Minnesota Advocates with advice concerning strategies for the release of the report as well as the response Minnesota Advocates would likely receive to the report from government and community organizations, including immigrant community organizations.

Step six: Use the report for education and advocacy. In collaboration with local advocates and government officials, Minnesota Advocates is developing a plan for using the report as an advocacy tool to raise awareness of the needs of and problems facing refugee and immigrant victims of violence in the Minneapolis/St. Paul metropolitan area. Minnesota Advocates has already discussed many of these problems with advocates and government workers through participation in conferences sponsored by the Immigrant and Refugee Battered Women's Task Force, such as the April 2004 Central Minnesota Conference on Domestic Violence and Immigration. In the fall of 2004, Minnesota Advocates will be conducting a private roundtable discussion of the report among high-level representatives of state and local government agencies one week prior to the release of the report. Minnesota Advocates is also considering whether to release the report in connection with a public conference on the obstacles faced by immigrant and refu-

gee women survivors of violence in gaining protection and services. Following the release of the report, Minnesota Advocates will lead trainings with government agencies in order to introduce the report findings and recommendations to government workers who come into regular contact with battered immigrant women.

Transferability LESSONS LEARNED

With each new monitoring project, Minnesota Advocates has confronted new challenges and learned important lessons. In general, we have learned that, while human rights monitoring by itself is an effective tactic, it is much more effective when used in conjunction with education and advocacy. Further, as the first case study illustrates, it is important to continue to support and collaborate with in-country human rights groups after the report is published. An ongoing partnership is the way to create real change.

We have learned some very specific lessons related to fact-finding. For example, it is important to be creative in thinking about potential sources of information. In Peru, we began a practice of asking every cab driver their opinion about the Truth and Reconciliation Commission and the transitional justice process. We found that many of the cab drivers were themselves internally displaced persons and other victims of human rights abuses. We have also found that media attention early in the mission can greatly assist in obtaining interviews with high-ranking government officials.

Minnesota Advocates also has extensive experience with using volunteers as fact-finders. The volunteer fact-finders need specific training, not only on human rights monitoring methodology, but also on the country and the issues that will be investigated. Particular attention should be paid to interviewing skills. Special training should be provided on interviewing victims of torture or trauma. In addition, fact-finders and their translators should be culturally appropriate.

Careful planning is necessary to ensure that the interview process minimizes the intrusion and trauma that may be associated with such questions. Before beginning an interview, fact-finders should take great care to explain who they are, what they are doing and why. Fact-finders must ensure that women are informed of what will be done with the information they share. For example, fact-finders must communicate to participants that the information they give will be published in a report without any revealing characteristics and that all personal data will be kept strictly confidential. The fact-finders must also make sure that the individual's participation in the interview is voluntary. Special care should be taken in selecting female fact-finders and translators to conduct the interviews of women who may have been victims of rape or sexual violence. In the case of the Battered

Immigrant Women Documentation Project, the decision to rely on shelter advocates to identify violence survivors for fact-finding interviews was effective in ensuring that Minnesota Advocates interviewed only survivors who were prepared to discuss their story. Shelter advocates were able to discuss the details of the project and the interview questions with their survivor clients prior to any interview. The advocates were thus able to prepare the survivor for the subject of the interview, ensure that the survivor is aware that the interview will be anonymous and assess the willingness of the survivor to participate in the project.

We have learned that when conducting fact-finding in teams, we need to decide *before* the interview who will be the lead interviewer and who will take notes. While it is helpful to prepare a list of questions for fact-finders, it is important to train the fact-finders not to ask only those questions on the list. Fact-finders should conduct interviews through open, non-leading questions; they need to be flexible enough to follow new lines of questioning in order to pursue information, determine credibility and test the reliability of the testimony.

The Battered Immigrant Women Documentation Project showed us that using human rights monitoring within our own community presents unique challenges. When we do overseas work, the reactions to our reports come from a distance. In this case, we are part of the community. We are carefully analyzing how to best encourage change through our report. After consulting with the Steering Committee for this project as well as the Minnesota Immigrant and Refugee Battered Women's Task Force, Minnesota Advocates has decided to conduct a private roundtable discussion of the report and recommendations for government action with a small number of high-level representatives of government agencies. Minnesota Advocates will organize this roundtable for the week prior to the release of the report and will hand deliver the report to the roundtable participants. With these steps, Minnesota Advocates seeks to encourage government agency cooperation in addressing the problems highlighted in the report. The risk is that with advanced notice of the release of the report, judges and government agencies can prepare a negative response that may diminish the impact of the report and Minnesota Advocates' advocacy initiatives.

We have also learned that particular care must be taken during the fact-finding and reporting process to distinguish among different communities and citizenship statuses, including among the experiences of women in different refugee or immigrant communities, as well as the experiences of women who are documented and those who are undocumented. The involvement of a Steering Committee has been crucial in helping us think through the ramifications of this work on various communities.

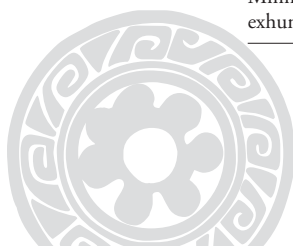
Case study #3: Human rights monitoring of transitional justice

In 2002, Minnesota Advocates began using human rights monitoring methods to contribute to the success of transitional justice. The growing momentum for transitional justice marks a new era in human rights work. Countries around the world are transitioning from violence and repression to peace, justice and reconciliation. More than twenty truth commissions have operated in the past two decades, including Bosnia-Herzegovina, East Timor, Federal Republic of Yugoslavia (Serbia and Montenegro), Nigeria, Peru and Sierra Leone. Groups and individuals are calling for the establishment of transitional justice mechanisms in countries as diverse as Cambodia, Colombia, Jamaica, Liberia, Mexico, Morocco, Northern Ireland, Philippines, Uganda and Zimbabwe.

Human rights monitoring can play a vital role in the success of transitional justice processes. Human rights monitors' investigations and published observations uphold the integrity of the process; monitors provide moral and emotional support for victims who make the difficult decision to provide testimony; and monitors further legitimize the transitional justice process



Minnesota Advocates volunteer observing the Truth and Reconciliation Commission-sponsored exhumations of mass graves in Lucanamarca, Peru.





Minnesota Advocates team conducting on-site investigation of conditions at an amputee camp in Sierra Leone.



Minnesota Advocates team members interview Bishop Humber, chair of the Sierra Leonean Truth and Reconciliation Commission.



Minnesota Advocates staff and volunteers conducting fact-finding interview in Freetown, Sierra Leone.

by bringing it to the attention of the international community. In the end, human rights monitoring also puts pressure on the government to comply with the truth commission's recommendations.

In the summer of 2002, the Peruvian human rights NGO Paz y Esperanza requested that Minnesota Advocates send a team of international observers to participate in the Truth and Reconciliation Commission (TRC) process in Peru. Paz y Esperanza believed that the presence of international human rights monitors would help to draw media attention to the TRC process and pressure the government to implement the TRC's recommendations. The mandate of the Peruvian TRC was to investigate and analyze the cause and impact of human rights abuses committed under three separate administrations between 1980 and 2000. The TRC also was also charged with publishing a final report of its findings and making recommendations for institutional reforms and reparations for the victims.

The Peru Project team included one staff member and nine volunteer attorneys. The team traveled to Peru in early November 2002 to conduct fact-finding in Lima and Ayacucho. Team members conducted individual interviews with victims, family members, legal advocates, staff and members of the TRC, judges, U.S. government officials, NGO representatives, prosecutors, police, and officials in the Ministry of Justice, Defensoria del Pueblo (Human Rights Ombudsman's office), and Executive Branch (President of the Council of Ministers). The delegation also visited two prisons and a torture treatment center. Two team members also observed the TRC-sponsored exhumations of three mass graves. The team received significant coverage from local, national and regional print, television and radio media outlets.

It became clear that Minnesota Advocates could contribute significantly to the success of the TRC process. In response to a request from the president of the TRC, Minnesota Advocates submitted to them a preliminary report that included specific recommendations for the TRC to include in its final report information related to applicable international human rights standards, as well as legal, judicial and other reforms. Minnesota Advocates also worked to raise awareness in the U.S. and at the United Nations about the TRC, as well as support for continued reform after the TRC completed its work in late August 2003.

Minnesota Advocates returned to Peru in August of 2004 at the one-year anniversary of the publication of the TRC's final report. The purpose of this trip was to monitor the steps that the Peruvian government is taking to implement the TRC's recommendations and to prosecute the perpetrators named by the TRC. To this end, Minnesota Advocates conducted fact-finding interviews with members of congress, the execu-

tive branch, prosecutors, police and judges, as well as civil society NGOs.

Minnesota Advocates' final written report on the TRC process in Peru will be published in late 2004. The written report, which uses international human rights standards to analyze the TRC process, details findings related to the TRC's work as well as findings on select human rights issues. The report will also include recommendations to the Peruvian government, the NGO community and other relevant participants in the process.

Building on experience gained monitoring transitional justice in Peru, Minnesota Advocates for Human Rights began monitoring transitional justice in Sierra Leone in 2004. In addition to the Sierra Leonean Truth and Reconciliation Commission, which is investigating and creating an historical record of human rights abuses committed between 1991 and 1999, Sierra Leone has a separate mechanism for trying the perpetrators. The Special Court for Sierra Leone is an independent court using both international and Sierra Leonean law, judges and prosecutors. The court is mandated to prosecute persons bearing "the greatest responsibility" for serious violations of international humanitarian law and certain crimes under national law perpetrated between November 30, 1996, and 1999.

A Minnesota Advocates' team of two staff members and three volunteers spent two weeks in May 2004 conducting on-site investigations and more than forty fact-finding interviews in the capital city of Freetown and in the Bo, Kono and Kenema Districts. The team interviewed representatives of the UN Mission in Sierra Leone, TRC commissioners and staff, government officials, victims, witnesses, media, police, lawyers, civil society organizations, a member of parliament, and the chief justice of the Supreme Court of Sierra Leone. The team also met with staff in all of the organs of the Special Court for Sierra Leone (Office of the Prosecutor, Office of Defence, Registry, Chambers), as well as individuals working in witness support, outreach, and the press and public affairs office. In addition, they inspected the SCSL's detention facility and visited two amputee camps, a refugee camp and a torture treatment center.

Team members are now working on compiling interview notes and drafting a report on transitional justice in Sierra Leone. Minnesota Advocates also used the team's findings to make written and oral statements on transitional justice in Peru and Sierra Leone at the 2004 meeting of the U.N. Subcommittee on Human Rights. Additional education and advocacy efforts include Web-based materials, community educational forums and written curricular materials on transitional justice for use in high school and universities.

CONCLUSIONS

With a little creativity and a lot of careful preparation, human rights monitoring can significantly improve human rights conditions at home and around the world. In a country like Peru, where there is serious concern about the government's commitment to implement the TRC's recommendations and to prosecute the perpetrators of human rights abuses, human rights monitoring and international pressure has the potential to play an important role in securing the success of transitional justice in Peru. Here in Minnesota, human rights monitoring has the potential to change government agencies' policies and practices in order to improve protection for immigrant women.

Minnesota Advocates' successful use of human rights monitoring over the past 21 years has been the result of many factors—not least of them the volunteers who have carried out the bulk of the work. There are, however, two factors that should be emphasized for groups considering whether to undertake human rights monitoring: (1) Strategic decisions (based on the individual organization's mission, operating principles and capacity) should be made about how and when to use the tactic; and (2) This tactic is most effective when used as part of a bigger strategy, whether that's an ongoing partnership as illustrated in Case Study #1 or education and advocacy as illustrated in Case Study #2. With this in mind, we are confident that many more small NGOs like Minnesota Advocates can use human rights monitoring methods to improve human rights in many different countries and contexts.

Suggestions for thinking about using this tactic:

Minnesota Advocates recommends that the following questions be considered when deciding to adapt the tactic for use in a new context:

- What will be the scope of your monitoring (i.e. what rights will be covered)?
- What kinds of information do you need to gather?
- Where will you get it?
- What documents will you collect?
- What other documentation will you do (photos, etc.)?
- Who will you interview? (Think broadly—who has information that could be valuable to you?)
- Are there any special considerations when interviewing certain individuals (victims, for example)? How will you prepare for and conduct those interviews?
- Are there events that you will observe?
- Are there locations that you will inspect?
- What kind of visibility do you want for the mission? How will you pursue media coverage?
- What kind of ongoing monitoring will you do when you return from your fact-finding mission?
- How will you use your report?
- Will other tangible products result from your mission?
- What further education and advocacy efforts will you consider?



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The Center for Victims of Torture
New Tactics in Human Rights Project
717 East River Road
Minneapolis, MN 55455
www.cvt.org / cvt@cvt.org
www.newtactics.org / newtactics@cvt.org

