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Organising for Women's Economic and Social Rights: How useful is the International Covenant an Economic, Social and Cultural Rights[1]?

This article explores the potential strengths and weaknesses of the International Covenant on Economic, Social and Cultural Rights (ICESCR) as a focus for women's international organising to claim economic and social rights. The article charts the ways in which international women's groups have engaged with the UN human rights System and through an examination of feminist critiques of the ICESCR it proposes some strategies for 'civil society organisations to draw on to ensure the realisation of their economic and social rights. The article argues that there is a need to go beyond law-centred approaches and that women's groups need to directly challenge the economic policies that hinder the realisation of their economic and social rights. Linkages between legal activists, feminist scholars and grassroots mobilisations for economic and social justice need to be strengthened if such goals are to be achieved.

Introduction

This article was provoked by our experiences, as academics and feminist activists, taking part in international meetings in the 1990s in which women increasingly articulated their economic and social objectives in terms of claims for the fulfilment of economic and social rights.[2] This took place in a context in which women were making gains in terms of political rights in many countries, but at the Same time were experiencing a deterioration in their standard of living (Elson 2002).

Here we explore the potential strengths and weaknesses of the International Covenant on Economic, Social and Cultural Rights (ICESCR) as a focus for women's international organising to claim economic and social rights. The ICESCR (adopted in 1966 and entered into force in 1976) is a central pillar of human rights law. Together with the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (ICCPR) (which was adopted in 1966, entering into force as a treaty in 1976), it forms the International Bill of Rights.

In the 1970s and 1980s, civil and political rights were frequently referred to as "first generation rights" while economic and social rights were referred to as "second generation rights," implying a hierarchy in the development of human rights within the UN system. However, the inclusion of economic and social rights in core human rights treaties shows that in international law, they are rights on a par with civil and political rights (Steiner and Alston 1996). Their equal status has been reinforced by the articulation of the principle of the indivisibility of human rights at the UN conference on human rights in Vienna in 1993; and further strengthened by rulings from the Committee on Economic, Social and Cultural Rights on the ICESCR obligations (Brodsky and Day 2002, 188). The challenge, as with all human rights, is to bring about their realisation in practice.

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[1] Thanks to Judith Bueno de Mesquita, Human Rights Centre, University of Essex, for helpful comments.

[2] All human rights treaties referred to here are negotiated through the United Nations (UN) System and ratified by most UN member countries.

Our point of departure is a recognition that despite limitations and ambiguities, rights language retains considerable rhetorical and mobilising power, reminding us "that people have justified and urgent claims; rights confer agency and enable women in particular to articulate strong claims for equality" (Molyneux and Razavi 2002, 13). In our view, the invocation of claims to economic and social rights does not necessarily imply an adherence to liberal feminism. The hallmark of liberal feminism is not a focus on rights per se, but a belief that women's emancipation comes through equal rights to own private property and participate on an equal basis in the markets of the capitalist system. Many women campaigning for economic and social rights do not share that liberal feminist view. Instead, they are using such claims to challenge the Operation of contemporary capitalism. They focus on rights to use collective property, such as public health systems, rather than on rights to own private property.

The paper is organised as follows: in section 1, we discuss some of the ways in which international women's groups have engaged with the UN human rights system. Section 2 briefly explains the ICESCR and the ways in which civil society organisations can make use of it. Section 3 discusses feminist evaluations of the ICESCR. The fourth section argues the need to go beyond law-centred approaches, to challenge directly the economic policies that hinder the realisation of women's economic and social rights. A brief conclusion summarises the key points of the argument.

International Organising around Women's Human Rights

Women's rights have been an important focus for women's organising since the beginning of feminist movements. In the last quarter of the twentieth century many women's organisations in all parts of the world undertook a critical evaluation of the UN human rights system,[3] its treaties and practices (Cook 1994; Fraser 1999; Peterson and Parisi 1998; Schuler 1995), and campaigned to ensure that it started to recognise violations of women's rights as violations of human rights even if they took place in the private sphere (Bunch 1990). Successive UN conferences, beginning with the First World Conference on Women in 1975, were an important focus for their campaigns.

The first fruit of this campaigning was the Convention of the Elimination of all Forms of Discrimination against Women (CEDAW) (adopted in 1979, entering into force as a treaty in 1981). By early 2004 one hundred and seventy five states had ratified CEDAW, although a substantial minority of states have entered reservations limiting their obligations with respect to particular articles, often where they anticipate conflict between CEDAW and customary or religious law. (For more details see: http://www.un.org/womenwatch/daw/cedaw/ reservations.htm).

Women's organisations in many countries proactively used this treaty to influence the courts and the legislatures and to 'name and shame' governments that were failing to implement CEDAW (Landsberg-Lewis 1998). CEDAW has had an impact where women have been pro-active in using it. It has been used as a guide in producing new,

[3] There are two elements to the UN human rights system, namely the human rights treaty regime comprising the UN sponsored but free-standing treaties and their respective monitoring bodies on the one hand, and the UN-based human rights bodies and mechanisms on the other. See website (http://www. unhchr.ch/html/menu2/2/chr.htm) for more in-depth information.

more equitable, constitutions (for instance in South Africa, Brazil and Uganda), in guide in courts decisions an issues like sexual harassment (India) and women's property rights (Tanzania), and in reforming national laws. Moreover, elsewhere NGOs have used the CEDAW reporting process to publicise their demands. For example in 1998 in Croatia, after presenting their second report to the CEDAW Committee the Government did not publicise the results of the meeting as they had promised. A coalition of Croatian women's NGOs (who had also presented a Shadow Report) organised a widespread publicity campaign to pressure the Government to fulfil their commitment, to keep the Government accountable, and also to help develop the public's understanding of the international women's human rights entitlements Croatia had endorsed. (For more detailed discussion and other examples see Landsberg-Lewis (ed) 1998).

Attention then turned to the International Covenant on Civil and Political Rights (ICCPR). The ICCPR includes the right of all human beings not to be subjected to "torture or to cruel, inhuman or degrading treatment" but the interpretation of the treaty failed to recognise domestic violence as coming within its ambit, as domestic violence is not committed by the state. Women's groups in many countries organised to change this. A Global Campaign for Women's Human Rights was created to transform the outcome of 1993 World Conference on Human Rights in Vienna. The Campaign was successful in ensuring that the Vienna Declaration and Programme of Action stated that "the human right of women and the girl-child are an .inalienable, integral and indivisible part of human rights". The Conference also initiated the Declaration on the Elimination of Violence Against Women which was subsequently adopted by the UN General Assembly in 1993. Although such Declarations are not legally binding, many women's groups across the world used their governments' acceptance of the Declarations to campaign for improved rights for women. For example, they inspired one of the most effective campaigns promoted by the Latin American Women's Movement, the Violence Against Women (VAW) campaign, in nineteen different countries across the region, including Brazil, Bolivia, Peru and Nicaragua. NGOs working with rights-based agendas joined organisations pressuring the state for legal reform and were able to collaborate productively on there issues. The campaign enabled groups normally opposed to one another, such as feminist organisations and the churches, to form strategic alliances to bring about change (Molyneux and Lazar 2003, 64). The campaign resulted in changes to legislation and the introduction of a range of policies in different countries to deal with domestic violence. For example the 1998 Law against Violence towards Women and the Family in Venezuela (the only Andean country without a VAW law until then) and the adoption of the legal procedures for implementing the existing VAW legislation in Bolivia have been attributed to the campaign (Molyneux and Lazar 2003, 69).

In the ten years since the Vienna Conference, there has been a widening of the enjoyment of civil and political rights for millions of women, with democratisation in many countries, both in the developing world and in the formerly communist states of the former Soviet Union and Eastern Europe. Yet concurrently there has been a limitation of the enjoyment of the economic and social rights set out in the ICESCR (Elson 2002). The fall of state socialism across Eastern Europe signified an end of guaranteed universal access to social services, and in many developing countries the

on-going reduction and privatisation of public services (generally a condition for IMF and World Bank loans) has removed much of the more limited access their citizens had. The established welfare states of the OECD countries have also been under pressure from the forces of economic globalisation.

The implications have been somewhat different for women in rich and poor countries. While in many developed countries the decline of the welfare state, together with market deregulation and globalisation, has resulted in the erosion of workers' rights and a rise in unemployment; in contrast in many developing countries, the creation of new forms of employment has actually increased individual autonomy for many women workers, even though at the same time they are subject to discrimination and exploitative working conditions (Beneria 2001, 38). These contradictory trends have lead to an increasing concern with claiming women's economic and social rights (Molyneux and Razavi 2002).

Since the late 1990s the language of women's human rights has been adopted by organisations that focus on gender and development and draw mainly upon economic and social analysis since they believe it offers considerable potential for improving the context of many women's lives. In addition, women's human rights activists and scholars, often drawing upon legal analysis, have begun to focus on women's economic and social rights in the context of the UN human rights system. Some of this work has culminated in the drawing up of the Montreal Principles on Women's Economic, Social and Cultural Rights, which are discussed in more detail below.

Symptomatic of the former is the change in focus of the Association for Women in Development (AWID), founded in 1982 primarily as a US organization bringing together US academics, voluntary organisations and development policy practitioner (see www.awid.org). AWID became a global membership organization in the 1990s, embracing the "gender and development" approach, which sought to transform development, not merely to integrate women into development. In 2001 it changed its name to Association for Women's Rights in Development, signalling a further shift in thinking and practice. As explained by its Executive Director, Joanna Kerr, AWID sought:

> to bridge the gap between the fields of women's human rights and gender and development. Women's rights provides the powerful language and monitoring System to assert that women's rights are an inherent part of all women's lives and gender and development is an enabling tool for overcoming the social realities that violate those rights. (Kerr 2002)

One of the four thematic programs of the new AWID is "Women's Rights and Economic Change" focusing on how best to guarantee women's human rights in a global economy. It builds capacity to meet this challenge through its international forums, website, publications and through electronic networking. Among the strategies it identifies is "using the ICESCR as a tool for social and economic justice".

Similarly the European NGO, Women in Development Europe (WIDE), had already identified this human rights instrument as one that needed further consideration, particularly from a gender perspective (see WIDE 1998) and devoted its Annual

Assembly in June 1998 to this topic. Assessments of the status of women's economic and social rights in different regions were given by leading international women's rights activists.

Both AWID and WIDE point to the advantages of a discourse of economic and social rights. AWID highlights its "powerful vocabulary of legal and moral accountability, which is backed up by international recognition" (AWID 2002). WIDE author, Mariama Williams (1998), points to its ability to limit the freedom of markets to turn people into commodities, providing a basis for challenging the dominance of market-led development strategies. At the same time, Williams and other WIDE members have been critical of various aspects of the ICESCR.

Feminist lawyers Day and Brodsky (1998) make three important points about why women should be interested in the ICESCR as well as in CEDAW. Firstly, its subject matter is practical, material conditions, and it articulates the responsibility of governments for ensuring those conditions are adequate. Secondly, because for women "a division between rights to economic security and rights to personal liberty is purely artificial. In the circumstances of women who have violent or psychologically abusive male partners, for example, the indivisibility of economic issues from violence issues is clear" (94). Thirdly, because the ICESCR precludes equalising downwards (that is narrowing gender gaps in ways that reduce the standard of living of both women and men) (110). CEDAW, with its focus on eliminating discrimination, is not so well-equipped as the ICESCR to provide a basis for resistance to the erosion of living standards in neo-liberal economic restructuring.

However, Day and Brodsky are not uncritical of the ICESCR and have been active in setting up the Canadian-based Women's Economic Equality Project (WEEP) (see www.cesr.org) which develops more effective ways in which the human rights framework and human rights instruments can be used to promote women's economic and social rights. Thirty global women leaders in the economic and social rights movement attended a WEEP consultation in Cape Town in December 2000, where papers were presented on different issues in the interpretation and implementation of women's economic and social rights. WEEP has now been superseded by the Women's Working Group of the International Network for Economic and Social Rights (ESRC-Net) (see www.esrc-net.org). This Working Group has focused an developing a set of principles to guide interpretation of the guarantees of equal enjoyment of rights contained in the ICESCR, and in December 2002 held a meeting in Montreal, resulting in the Montreal Principles on Women's Economic, Social and Cultural Rights. In particular the Principles point to the failure of the ICESCR to acknowledge the context of many women's lives and the disadvantaged position resulting from their caring responsibilities. They also point to the need to move beyond gender-neutral language, to recognise women's autonomy and see women not merely as dependants of men. The Group is currently seeking endorsement of these principles by individuals or organisations (see http://groups.yahoo.com/goup/ESRC-FEM).

The International Covenant on Economic, Social and Cultural Rights

What does the Covenant actually say, and how is it operationalised? The Covenant states that men and women have equal right to the enjoyment of all the rights it sets out

(the full text of the Covenant is available at www.unhchr.ch/html/menu3/b/a_cescr.htm). These rights include the right to work, including the opportunity to gain a living by work which is freely chosen (Article 6); the right to just and favourable conditions of work, including fair and equal remuneration (Article 7); the right to form and join trade unions (Article 8); the right to social security (Article 9); the right to an adequate standard of living, including adequate food, clothing and housing (Article 11); the right to the highest attainable standard of physical and mental health (Article 12); the right to education and the right to take part in cultural life (Article 13). Special mention is made of the family, which should be accorded "the widest possible protection and assistance", while "marriage must be entered into with the free consent of intending spouses" (Article 10 (1)) (For more detail, see Steiner and Alston 1996).

This Covenant, like the ICCPR, is considered to impose three types of different obligations on states that are party to it (termed "States Parties" within human rights treaties): the obligations to respect, protect and fulfil the rights enumerated in it. As of July 2003, 147 states had ratified this treaty, with the USA being one of the few that had not.

The obligations on States Parties are qualified in article 2 (1) of the ICESCR, which says: "Each State party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of available resources, with a view to achieving progressively the fall realisation of the rights recognised in the present Covenant." Article 2(2) sets out the principles of equality and non-discrimination in relation to the provision of covenant rights.

The implication of the phrases "to the maximum of available resources" and "with a view to achieving progressively" is to allow a state to realize its obligations over an (indefinite) period of time. This wording is in contrast to Article 2 of the ICCPR, in which State party have en immediate obligation to respect and ensure all enumerated rights. Considerable debate surrounds the question of the nature of States Parties' obligations and the broader question of justicability of economic and social rights. Some critics have suggested that the nature of the obligation set out in the ICESCR is so onerous that virtually no government will be able to comply. Others have argued that the concept of progressive realisation, particularly in the light of the qualification related to the availability of resources, renders the obligation devoid of any meaningful content, so that governments can present themselves as defenders of economic and social rights without their polices and behaviour being constrained in any way (Steiner and Alston 1996, 274). Political theorist David Beetham (1995, 54) argues that it is relatively easy to demonstrate that economic and social rights are firmly anchored in corresponding duties. He asserts that the general duty to aid those in need falls in the first instance on national governments, from societal resources, to ensure basic rights are realized where individuals, families or groups are not able to do so. Where governments, particularly from developing countries, do not have sufficient resources it is the responsibility of international organisations to support national governments. In determining how far these duties are realisable in practice he suggests that one can divide the arguments into two distinct categories—technical-economic and politico-economic. Beetham maintains that numerous technical studies, including from the

World Bank and United Nations Development Programme, have shown that there are sufficient resources and economic and technical expertise to ensure that the basic rights of the global population could be guaranteed within the next decade. Where the feasibility of such a project begins to look more doubtful is when one considers the politico-economic standpoint. From this perspective such an achievement seems impossible since any such guarantee of basic economic and social rights would essentially require a large-scale re-distribution of resources which the majority of international financial institutions and governments would be unwilling to undertake. However, this is not to say that populations cannot mobilise against this. Beetham concludes that perhaps the most important point of the ICESCR and human rights discourse is that it "offers internationally authorised discourse to the deprived to legitimate their own struggles for their realization" (1995, 60).

States Parties' compliance with the Covenant is monitored by the Committee on Economic, Social and Cultural Rights (CESCR). The CESCR was set up by the Economic and Social Council of the UN in 1985 and has eighteen members (in July 2003, only three members were women), elected by the UN Economic and Social Council, who serve a four year term (UNHCHR/ UNCESCR 1991, Part 6). Decisions made by the CESCR are not legally binding and it lacks the authority to drive any political reform to ensure States Parties' commitments to the ICESCR are upheld. The Committee issues General Comments intermittently which provide an authoritative substantive interpretation of the Covenant and its application to issues of concern. They clarify the contours and content of the rights set out in the Covenant and the resulting obligations on States Parties; and they also clarify procedural rights, including the right to participate, the right to information, and the right to effective remedies from domestic courts. In General Comment 3 it was clarified that the concept of "progressive realization" does not permit the perpetuation of economic injustice and disparity. States are required to take steps continuously to improve people's enjoyment of economic, social and cultural rights (CESR 2000). Two particularly important principles have been established. The fast is the principle of minimum core content, which means that policies that deprive people of a basic level of subsistence are violations of the Covenant. The second is the principle of non-regression, which means that measures that actually worsen enjoyment of economic, social and cultural rights are violations of the Covenant.[4] Moreover, it has been clarified that "progressive realization" does not apply to discrimination. There is an immediate duty to end discrimination in the enjoyment of the rights, including unintended as well as deliberate discrimination.

The principles set out in General Comment 3 in theory prohibit a government from reducing basic public services if this policy is assessed to be detrimental to the enjoyment of the rights in question. Some commentators are hopeful that they will thus

[4] The concept of a violation of economic, social and cultural rights was first embodied in the 1986 Limburg Principles. These were updated in 1997 by a meeting of over thirty human rights experts in Maastricht. The Maastricht Guidelines on violations of Economic, Social and Cultural Rights reiterate that the failure by a State Party to comply with a treaty obligation concerning economic and social rights is, under international law, a violation of that treaty and emphasise minimum core obligations to achieve results.

provide states that are party to the treaty with some defence against the imposition of neoliberal economic reforms as conditions of loans from the IMF and World Bank. Pillay (2002) argues that when a government is required to implement an economic reform program, it can object to certain elements of the program if it can Show that it would entail measures that are contrary to the obligations in the ICESCR. The idea is that if countries ratify the ICESCR they can use this as a bargaining chip to ensure that the conditions set by financial institutions are compatible with the country's obligations under the Covenant. There is currently an open-ended UN Working Group responsible for looking at the relationship between Structural Adjustment Programs and Economic, Social and Cultural Rights (www.unhchr.ch/Huridocda).

However, there is no International Court that can hold states (or international financial institutions) accountable for violations of economic, social and cultural rights. The only international implementation mechanism is via the system of reporting to the Committee. Those states that have ratified the Covenant are expected to submit a report to the Committee within two years of ratifying the Covenant, and then provide a follow up report every five years. States are expected to provide detailed information on the degree to which rights are implemented and areas where difficulties have occurred. The reports should provide a general profile of each country, as well as details of the legal status and specific implementation of the ICESCR within the country and the role of international co-operation in the implementation of the Covenant. There are specific guidelines structured on an article-by-article basis, for reporting and the substantive provisions, and the information requested generally consists of a mix of descriptive information and statistical data (Chapman 1996, 33). Critics have argued for more gender-sensitive methodologies, targets, and indicators as well as gender-disaggregated data to be required in the compilation of the reports. An evaluation that we conducted in 1999 of four reports submitted from four countries in different regions of the world certainly supports this argument.[5]

The reports undergo a review process by members of the Committee, who then issue "concluding observations" regarding compliance with the Covenant in the reporting state. These are made public at the end of each Session, but are not legally binding.

National and international non-governmental organisations (NGOs) and community-based organisations (CBOs) can submit information to the Committee on the extent to which a state has complied with the Covenant (so called "shadow reports") and can present their views an the first day of the Committee meeting (UN E/C.12/2000/6). The active participation of NGOs and CBOs can ensure that there is widespread publicity for the concluding observations issued by the Committee in the country to which they pertain, so that even if the concluding observations are not legally binding there may be social and political pressure to respond to them.

An example of NGO use of the ICESCR reporting system is the submission of Canadian NGOs concerning the impact of the 1995 Canadian Budget Implementation Act (BIN. The National Action Committee an the Status of Women joined together

[5] Publicly available reports from different regions of the world were selected: Guatemala (Initial Report 1995), Sri Lanka (Initial Report 1997), the United Kingdom (Third Periodic Report 1996) and Zimbabwe (Initial Report 1995).

with other Canadian NGOs such as the Charter Committee on Poverty Issues and the National Anti-Poverty Organisation to make representations to the ICESCR Committee, requesting that the

government of Canada be called to account to explain how the BIA was consistent with the terms of the Covenant (Day and Brodksy 1998, 114). The ICESCR Committee subsequently called upon the government of Canada to provide an account in its third periodic report in 1998. The concluding observations of the Committee included the judgement that the BIA, by replacing the Canada Assistance Plan with the Canada Health and Social Transfer "entails a range of adverse consequences for the enjoyment of covenant rights by disadvantaged groups in Canada" (para 19) and specifically noted that this had had a particularly harsh impact on women. (para 23) (United Nations Committee on Economic, Social and Cultural Rights 1998).

Only a limited number of NGOs currently submit reports to the Committee. Williams (1998, 17) believes that this is because many are unaware of this process or only have an imprecise or vague understanding of the rights. AWID does encourage women's groups to submit shadow reports to the Committee. Women's groups have done this very effectively in relation to the Convention on the Elimination of Discrimination Against Women (CEDAW), which has a similar reporting process (Landsberg-Lewis, 1998), but we are not aware of any women's group that has submitted a shadow report on compliance with ICESRC, though some have played an important role in coalitions of NGOs which have jointly submitted a shadow report, as in the case of Canada discussed above.

At present it is not possible for individuals or groups who feel that their rights under the Covenant have been violated to submit formal complaints to the ICESRC Committee. The adoption of an Optional Protocol which would make this possible has been discussed by the Committee at as number of meetings, and is called for in the Maastricht Guidelines (point 31), but as yet has not been put into practice. A working group is currently looking into options for the development of an Optional Protocol.

An Optional Protocol to CEDAW was adopted in 2000. Where national procedures have been exhausted, the Optional Protocol offers an international procedure that could potentially help women secure their rights. However, it is important to note that a woman cannot make use of the Optional Protocol unless it has been ratified by the state under whose jurisdiction she lives, and in February 2004 only sixty states had ratified (See http://www. un.org/womenwatch/daw/cedaw/sigop.htm).

Molyneux (2001) has shown how women's groups in Peru were able to use international campaigns for women's rights to bring about local level changes around women's reproductive rights when they failed to make any progress at the national level. The Optional Protocol could offer similar possibilities. Women's Human Rights Net (WHRN), an NGO working within AWID argues that the Optional Protocol can be of use to women when it is used as part of a broader set of strategies to secure women's rights. While any recommendations made by the CEDAW committee are not legally binding and their enforcement depends upon the commitment of the State party and pressure by civil society, the Committee and the international community, the Optional Protocol does offer the possibility of redress for victims who would otherwise have

none. WHRN argue that the main advantage of using the Optional Protocol is that CEDAW provides a conceptual and legal framework capable of encompassing a wide range of the rights indispensable to women's lives and it creates relatively specific obligations for States (Sullivan 2004).

Feminist Evaluations of the ICESCR

In an assessment of human rights over the last fifty years, Peterson and Parisi (1998, 148) contend that human rights are typically conceptualised as mainly applicable to the public sphere of the market and state. Within this understanding, the identification of women as primarily mothers and dependants of male providers limits their claims to socio-economic rights. Because male breadwinners are expected to provide for the basic needs of their dependants, women are less able to claim such rights on their own behalf. The wording of the Convention certainly reflects such a view of the world. For instance, Article 11 refers to "the right of everyone to an adequate standard of living for himself and his family."

Charlesworth (1994, 106) makes a similar point, contending that many human rights principles are inherently biased against women since they operate primarily in the public sphere and ignore what takes place in the private sphere, where many abuses of women's rights actually take place. While it may seem that economic and social rights transcend this public-private dichotomy, this is not the case. Instead, she believes that the definition of these rights, as set out in the ICESCR, indicates the tenacity of the distinction between public and private worlds in human rights law. The ICESCR does not touch upon the economic, social and cultural contexts in which most women live, since the crucial economic and social power relationship for many women is not one directly with the state but with individual men, whose authority is supported by patriarchal state structures. This reflects the fact that the ICESCR was drafted in the 1950s and early 1960s before the reemergence of feminism as an international current of thought.

Similarly Neuhold (1998, 7) draws attention to the fact that the Covenant (and other human rights instruments) affirms the principle of nondiscrimination while simultaneously asserting the importance of the family (described as the "natural and fundamental unit of society"). She indicates how the patriarchal organisation of families may hinder the equal enjoyment of economic rights: for instance when there are shortages of food, men will be fed first.

Williams (1998) points to other shortcomings, arguing that although the Covenant does refer to the equal rights of both men and women to enjoy all economic and social rights, supports equal wages for work of equal value without discrimination of any kind, and also recognises the right of women to paid maternity leave, these rights are only applicable to women who are already integrated into the paid economy as independent earners. The ICESCR fails to recognise the needs of the many women who do not participate in the paid economy, or participate as unpaid family labour in family businesses and who are thus not covered by the rights that are conferred on workers who earn wages in the paid economy.

The CESCR has recognised some of the anomalies in the wording of the Covenant. In

its general comment 4 on the right to adequate housing, the Committee states: "The right to adequate housing applies to everyone. While reference to `himself and his family' (in article 11 (1) of the Covenant) reflects assumptions as to gender roles and economic activity patterns commonly accepted in 1966 when the Covenant was adopted, the phrase cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or other such groups. Thus, the concept of `family' must be understood in a wide sense. Further, individuals, as well as families, are entitled to adequate housing regardless of age, economic status, group or other affiliation or status and other such factors. In particular, enjoyment of this right must, in accordance with article 2 (2) of the Covenant, not be subject to any form of discrimination."

In response to some of the criticisms and limitations raised here, an Expert Group was set up by the UN Division for the Advancement of Women (DAW) in 1997 in an attempt to consider how to advance women's social and economic rights. Many of the fundamental concerns raised by women's rights theorists and activists were addressed by the Expert Group at their meeting in Finland in 1997 (UN DAW 1997). The Expert Group acknowledged the debates around economic and social rights and concluded that the failure to develop concrete standards and remedies for the enforcement of economic and social rights made it difficult to hold states accountable for violations of women's economic and social rights (point 23). The group also identified as a priority the need for developing gender-sensitive indicators of economic and social rights and urged that gender factors should be fully integrated at all three levels of state dunes in relation to socio-economic rights—the duty to respect, to protect and to promote and fulfil (point 32). Furthermore, the group emphasised the importance of mainstreaming a gender perspective into legislation, policies and programs designed to realize economic and social rights (for a more in-depth discussion see Elson and Gideon 1999). These points were reiterated in the Montreal Principles.

Following the Expert Group Meeting, the question of women's real enjoyment of their economic, social and cultural rights was addressed by the Fifty Fourth Session of the Commission on Human Rights (E/CN.4/1998/1). Yet while some of the issues raised by die Expert Group were addressed and the UN commitment to improving women's access to economic and social rights (point 11, op.cit) reiterated, many of the issues raised by die Expert Group were not incorporated into this document. The CESCR has been considering issuing a General Comment on women's economic, social and cultural rights, and has consulted the Women's Economic Equality Project and its successor, the Women's Working Group of the International Network for Economic, Social and Cultural Rights, about the possible content of such a General Comment. WEEP submitted their views on the General Comment on Women to the CESCR in April 2001 and restated, among other things, the importance of moving beyond gender-neutral language in any analysis and discussion of economic and social rights and highlighted the importance of removing systemic barriers to women's enjoyment of their rights (www.cesr.org/PROGRAMS/weepsubmission.htm). The periodic reporting System remains the principle mechanism of supervision for economic and social rights and consequently a General Comment can play a vital role and has been used effectively by other UN Committees such as the Committee on the Elimination of Racial Discrimination. As rights activist Dianne Otto (2002, 11) argues "general

comments have become `distinct juridical instruments' whereby treaty committees set out, in detail, their evolving interpretations of the treaties they supervise ... [and are] ... of immense importance to the UN human rights treaty System." Nevertheless, there are some limitations to the general comments, most importantly that while carrying enormous political and moral weight they are not legally binding.

Beyond Legal Approaches to Women's Economic and Social Rights

In developing strategies for the realisation of women's economic and social rights, some feminist analysts are stressing that it is important to move beyond a purely legalistic approach (Balakrishnan 2003; Tsikata 2003). Their concern is supported by the findings of a recent study of the judgements of national high courts in Canada, New Zealand and Israel:

> [J]udicial interpretations of constitutional rights appear to possess a very limited capacity to advance progressive notions of social justice in areas such as employment, health, housing, and education, which require greater state intervention and more public expenditure (Hirsch 2000).

A discourse of economic and social rights can, of course, be mobilized without any specific reference to the ICESCR. For instance, the Women's International Coalition for Economic Justice (WICEJ) mobilises around the commitments made at the UN conferences of the decade 1990-2000. WICEJ is an international coalition representing 35 organizations from all regions of the globe, including AWID and WIDE (see www.wicej.com). It seeks to build bridges between the issues of women's rights, women's economic justice, the multiple forms of discrimination against women, and the issues of peace and security. It focuses on intervention in global forums, both those which are intergovernmental (such as the UN Financing for Development conference in 2001) and those organized by civil society (such as the World Social Forum). WICEJ specialises in the critique of macroeconomic and trade policy and does not focus on specifically on the ICESCR. Rather it uses a discourse of economic and social rights to contest the abdication of government responsibility for provision of the services women need in their daily lives.

One of the resources that WICEJ draws upon is feminist economics. This offers, for instance, an analysis of economies as "gendered structures" that operate in ways that disadvantage women even if there is no overt discrimination against women (see Elson, Evers and Gideon 1997 for empirical studies on Nicaragua, Pakistan and Uganda). The starting point for looking at the economy as a gendered structure is recognition of "the unpaid care economy" organised in neighbourhoods and communities that support social reproduction and human development through the provision of care for family and community members—rare that is overwhelmingly provided by women and girls. The unpaid care economy produces labour, the crucial input into the paid economy, and it maintains the daily well-being of the population through activities such as housework, water collection and food preparation. The Out-put of goods and services is only included in the GNP if it involves market transactions, so that the unpaid care economy is invisible to economic policy makers.

The economic efficiency that neo-liberal economic policy makers seek is generally

defined in market-based terms and ignores the implications for resources which are not bought and Sold in markets. Broadening the vision of the economy makes the interaction of paid and unpaid activities central. Using this perspective it is easy to see how economic policies which purport to improve the efficiency of resource use may instead shift costs from the paid economy to the unpaid economy (for examples see Elson 1995). It makes it easy to ask the question—"efficiency for whom?" and to challenge supposedly "efficient" policies which in reality simply transfer costs from the visible part of the economy to the invisible.

The way in which much of women's work is rendered invisible because it is unpaid is but one example of the many ways in which economic institutions, both public and private are "gendered" in the Sense of operating according to norms that reflect men's lives. For instance, the organisation of private sector business and public sector services is structured on the assumption that workers have someone else at home taking care of the household, and is structured according to the rhythms and norms of men's lives. Neither public nor private sector economic institutions value and recognise unpaid care work; they marginalise women as workers, beneficiaries, and clients; they treat the household as if it were an integrated harmonious unit and treat women as dependants of men within the household.

This institutionalised bias hinders women's ability to participate fully in decision-making processes. The exclusion of women from key economic institutions, or their subordinate position within them, means that they are hindered from being able to articulate and claim their economic and social rights. For example, the absence of women from key decision making and the persistence of gender-biased norms in the allocation of public expenditure tends to result in patterns of expenditure that reproduce rather than diminish gender inequality. Women in a growing number of countries are challenging this through gender budget initiatives that look at government budgets through women's eyes and seek to change priorities and restore a sense of collective responsibility for human well-being (Budlender et al 2000; Budlender and Hewitt eds. 2003). Indeed, Helena Hofbauer draws on the experience of the gender-sensitive budget analysis in Mexico to show that it can be a critical tool for NGOs and women's activists to use in promoting women's economic and social rights. As she argues "budget analysis can help quantify the cost of the provision of specific rights and analyse the resource allocation accordingly" (2002, 101).

Another vital area of activity is the political mobilisation of women at the local level to claim specific economic and social rights. Here we have space only for three examples. In El Salvador, La Asociacion de Mujeres por la Dignidad y la Vida (Las Dignas) has been organising a campaign "Demanding My Rights" since 2000. Within this there is a specific program, "Economic Justice for Women", that campaigns for the promotion and protection of women's social and economic rights. This program defends women's labour rights, and conducts educational and advocacy work on the impact of trade agreements and privatisation on women (see http://www.lasdignas.org.svf). In some countries, political mobilisation is explicitly linked to a human rights framework. Thus, in Nigeria, the Social and Economic Rights Action Centre (SERAC), has prepared a "shadow report" on Nigeria's economic, social and cultural rights practices, and has specifically documented the various economic and social rights violations that

occurred as a result of forced evictions in different slum communities around Lagos. This information has been used to develop several campaigns to promote and protect women's economic and social rights (Ngwakwe 2002). In India, in 2002 the All India Democratic Women's Association used World Human Rights Day (December 10) to demand the realisation of the right to be free from hunger (a right specified in ICESCR Article 11). Thousands of women all across India blocked roads demonstrating at government offices, State Assemblies, and grain warehouses to demand a universal public distribution System for foodgrains (see http://www.aidwa.org).

Conclusions

This paper has reviewed the ways in which some international women's networks are focussing attention on the ICESRC as an arena for activism, both in terms of improving the Convention as a normative framework, and in using the reporting mechanism to "name and shame" governments. The strength of this approach is the ability to deploy the powerful vocabulary of "economic and social rights" which positions women as agents, not supplicants for charity; and which focuses not only on reducing gender gaps in living standards but also on improving the living standards of both women and men. Its weakness is the weakness of the ICESRC implementation mechanism in a world where economic and social power is more and more concentrated in the hands of big business and dealers in financial markets. In the future, it will be important to build stronger links between the legal activism around the ICESRC, the development of feminist alternative economic and social policies, and grassroots mobilisations for economic and social justice.

Abbreviations

AWID	Formerly the Association for Women in Development, currently known as Association for Women's Rights in Development
BIA	Canadian Budget Implementation Act
CBOs	Community-based organisations
CEDAW	Convention of the Elimination of all Forms of Discrimination against Women
CESCR	Committee on Economic, Social and Cultural Rights
ESRC-Net	Women's Working Group of the International Network for Economic and Social Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
IMF	International Monetary Fund
NGOs	Non-governmental organisations
UN	United Nations
WEEP	Women's Economic Equality Project
WHRN	Women's Human Rights Net
WICEJ	Women's International Coalition for Economic Justice
WIDE	Women in Development Europe

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