CHAPTER 9

TOOLS FOR MONITORING II: IDENTIFYING VIOLATIONS

**Keys to Chapter 9**

**key information:**
- Identifying violations of the right to health provides the work of NGOs with focus and critical definition and can help direct their monitoring activities;
- Identifying and documenting violations can help to raise awareness on specific aspects of the right, mobilize public opinion, highlight the responsibility and accountability of government, and be used as the basis for many different advocacy activities;
- Identifying violations can form part of a strategy to work as watchdogs of governments as well as partners with governments;
- Governments can violate their obligations arising from the right to health by direct actions (*acts of commission*) and inactions (*acts of omission*);
- The most common ways that governments violate their immediate obligations to respect, protect and fulfil the right to health result from: direct government action, failure to fulfil minimum core obligations, and patterns of discrimination.

**key questions:**
- Can your NGO identify areas in which the government may be guilty of violations, and in particular of its immediate obligations? These include core obligations and obligations related to non-discrimination.
- If your NGO has identified a situation of health-related injustice or inequity as the point of departure for its monitoring and advocacy activities, can it be linked to the government’s failure to comply with specific obligations arising from the right to health?
- Will your NGO’s advocacy activities be strengthened by framing the main issue(s) in terms of violations of the right to health?

**key action points:**
- Become familiar with the nature of state obligations arising from the right to health and with common ways that governments violate them;
- Identify possible violations of the right to health that relate to the focus of your advocacy activities and/or to pressing health-related needs in the community;
- Document any identified violations and use these as the basis for monitoring and advocacy activities.
WHY IS IT IMPORTANT TO IDENTIFY VIOLATIONS OF THE RIGHT TO HEALTH?

9.1. INTRODUCTION

Violations of the right to health are not as immediately obvious as the more traditional abuses of human rights such as torture and suppression of free speech. In such cases, NGOs have usually worked to identify and campaign against specific violations. But with economic, social and cultural rights, including the right to health, the tendency has been to concentrate more on monitoring their progressive realization than on identifying and exposing specific violations.

However, the position has been changing in recent years. Rights-based advocacy of health issues is effective precisely because it invokes the language of legal rights and legally-binding state obligations, and violations, all of which are concerned with the relationship between individuals and the community as rights-holders and the state, or other responsible authorities, as duty-bearers.

The very fact that governments are accountable for complying with concrete obligations means that the identification of violations that correspond with those obligations, plays a vital part in working with a human rights approach to health. Monitoring whether violations are taking place helps NGOs to focus their work on potential problem areas and to assess the extent to which their government is taking seriously, as a matter of priority, the fulfilment of its duties to implement the right to health. For this reason, the identification of common violations is helpful to direct monitoring.

Nevertheless, the reason for NGOs to identify violations of the right to health should not be regarded as necessarily confrontational, for example to name and shame governments. A guiding principle of this Resource Manual is that health professional associations and other NGOs working with a human rights approach to health have an important role to play, both as partners of governments, by constructively contributing to the promotion and progressive implementation of the right to health, and as watchdogs of governments, by monitoring their performance. In adopting a human rights approach to health NGOs should exert pressure from below by identifying violations at the individual and community levels and by educating people about their health-related entitlements. At the same time they should assist governments to meet their obligations in a sustainable manner. (See chapter 7.)

The immediate identification and documentation of specific violations serves several important purposes. It draws attention to urgent problem areas; provides the work of NGOs with focus and critical definition; and can help direct their monitoring activities. Furthermore, a focus on violations emphasizes both the responsibility and accountability of government. When described in the language of rights and violations, a lack of access to clean water or to primary health care that has been dismissed by the government as a regrettable and inevitable social