

should be 'informed' by international Conventions to which Canada is party, was raised as opening new arguments for economic, social and cultural rights in Canada. Canada must identify and clarify the relationship between customary law and international law and the status of an unincorporated treaty in Canadian law; both of which can be accomplished by bringing such arguments before the Canadian courts.

#### Enforcing the Rights

The difficulty in identifying the exact nature of economic, social and cultural rights has generated an overall reluctance on the part of states to create an Optional Protocol under the International Covenant on Economic, Social and Cultural Rights. It was suggested that perhaps the member states should undertake 'general comments' to clarify the elements of the rights as this would facilitate their enforcement.

The unenforceable capacity of WTO and ILO rulings was discussed. There is a general discomfort, however, with WTO attempting to enforcing economic, social and cultural rights norms at all. A suggestion was that instead of carrying the burden alone, the WTO could create a joint Committee with another body that has experience in the area of human rights (such as CEDAW or the CRC). A further suggestion for improving the WTO's purpose and function addressed the nomination to appellate bodies at the WTO. This was seen as an area in which Canada could and should increase its intervention at the WTO.

#### 4. CONCLUSIONS/OPTIONS

- Labour groups and unions, along with the labour standards they put forward, should be included in free trade agreements.
- Canada should link labour standards to trade rules by interpreting trade rules (such as at the WTO) in a manner consistent with existing human rights and international labour norms. A direct conflict between these should be avoided.
- By drawing on international law in the area of economic, social and cultural rights, Canada should inject economic, social and cultural rights within Canadian domestic law, thereby gaining legitimacy at the international level.
- The Canadian government and Canadian international lawyers should bring arguments before Canadian courts so as to clarify the relationship between customary law and international law and the status of an unincorporated treaty in Canadian law
- Canada and other member states of the International Covenant on Economic, Social and Cultural Rights should undertake 'general comments' to clarify the elements of the rights, as this would facilitate their enforcement.
- The WTO could create a joint Committee with another body that has experience in the area of human rights (such as CEDAW or the CRC).