

# ONLINE MANUAL ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

## ESC Rights: A Valid History, A Vibrant Future

Economic, social and cultural rights (ESC rights) are human rights recognized and embedded in the International Bill of Human Rights. Together with civil and political rights (C&P rights), ESC rights constitute part of an integral, interrelated, interdependent, and indivisible international human rights corpus enshrined in important legal instruments such as the

[Universal Declaration of Human Rights](#), [International Covenant on Economic, Social and Cultural Rights](#), and the [International Covenant on Civil and Political Rights](#). As preeminently proclaimed by the [Universal Declaration of Human Rights](#), the ideal of free human beings enjoying freedom of speech and belief, freedom from fear and *want* can only be achieved if conditions are created whereby everyone may enjoy his ESC rights, as well as his C&P rights.

The principle of the interdependence and indivisibility of all human rights has become solidly entrenched in the jurisprudence of municipal courts, regional and international judicial and quasi-judicial human rights bodies. For example, the [European Court of Human Rights](#) held in paragraph 26 of the October 9, 1979 decision in [Airey v. Ireland](#) that “there is no water-tight division between civil and political and economic, social and cultural rights.” In its [Concluding Observations \(CAT/C/XXVII/Concl.5\)](#), the [Committee against Torture](#) found that the Israeli policies on closure and house demolitions may, in certain instances, amount to cruel, inhuman or degrading treatment.

The prevailing consensus on the indivisibility and interdependence of all human rights belies the historical preeminence accorded C&P rights over ESC rights based on cold war-related ideological quibbles as well as the now discredited conceptual arguments which sought to show C&P rights as being in a qualitatively different category from ESC rights. This relegation of ESC rights denied many an important, rights-based platform to challenge the crippling social and economic conditions to which they are subjected. It also arguably ensured that the community of human rights advocates remained largely comprised of politically conscious professionals who did not see or act upon the necessity to directly engage the poor in the promotion and protection of human rights.

To be certain, ESC rights are valid, enforceable, justiciable and claimable under both municipal and international law. In relation to the justiciability of ESC rights, the [United Nations Committee on Economic, Social and Cultural Rights](#), the UN body responsible for monitoring the implementation of the International Covenant on Economic, Social and Cultural Rights, has stated that, “in relation to civil and political rights, it is generally taken for granted that judicial remedies for violations are essential. Regrettably, the contrary assumption is too often made in relation to economic, social and cultural rights. This discrepancy is not warranted by either by the nature of the rights or by the relevant Covenant provisions. The Committee further holds that “while the general approach of each legal system needs to be taken into account, there is no Covenant right which could not, in the majority of systems, be considered to possess at least some significant justiciable dimensions.” See the [United Nations Committee on Economic, Social and Cultural Rights General Comment Number 9 on the Domestic Application of the Covenant](#).

Today, the issue is no longer whether ESC rights are valid human rights but rather how they may be usefully, effectively and practically translated to the benefit of humankind, particularly those that are worse off socially and economically. This is the ultimate justification for this online manual which is offered as a contribution to the sharing, learning and doing now underway around the world in pursuit of the full realization of ESC rights.

The manual is an easy-to-use resource aimed at building human and institutional capacity to effectively use ESC rights, and responds to human rights defenders’ need for aid in integrating ESC rights into their active work. Although you will

find that the cases cited are mostly of a legal nature, and that the governing standards are framed within international law, this manual is not aimed at lawyers alone but offered as resource to all concerned with the promotion and defense of ESC rights, including grassroots activists and their organizations.

## ESC Rights Framework

### The Obligations of States

The essential elements of the State's obligation to implement all economic, social and cultural rights are encapsulated under Article 2 (1) of the [International Covenant on Economic, Social and Cultural Rights](#). It states: *“each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.”* (Italics added) While the exact scope of these legal obligations continues to be debated, there is an emerging consensus, forged by the clarifications offered by the [United Nations Committee on Economic, Social and Cultural Rights \(CESCR\)](#) in its [General Comment Number 3 on the Nature of States Parties Obligations](#) (issued at its Fifth session in 1990).

Three key elements of Article 2(1) can be identified as follows:

“undertakes to take steps . . . by all appropriate means, including particularly the adoption of legislative measures”

The Committee has concluded that this provision requires States parties to take immediate steps to create the necessary conditions for the enjoyment of the rights by everyone. This duty is not limited or qualified by other considerations such as by the idea of “progressive realization”. Concrete steps must be taken towards the implementation of Covenant obligations immediately upon ratification of the Covenant by a State. For instance, effective legislative measures must be taken to enhance the implementation of the rights, including the repeal of pre-existing inconsistent laws or policies. What constitutes “all appropriate means” must be decided based on the right under consideration and within the particular context of each state. In relation to housing, it may include education, democratization of administrative procedures, and the establishment of support-based programs for enhancing access of low-income groups or individuals to credit or other economic opportunities to acquire adequate housing acquisition. In this respect, activist organizations can conduct periodic reviews or evaluations of existing housing policies and programs in order to identify other measures that may be taken to realize the right to adequate housing.

“to the maximum of its available resources”

Although by far the most important principle in considering States obligations, it is also the most controversial as the claim of lack of resources is often used by States to avoid responsibility for implementing the rights under the Covenant. However, according to the Committee, it requires that all available resources must be used equitably and judiciously in the satisfaction of, at least, the minimum requirements of the rights, particularly to the advantage of the most vulnerable sections of the population. On this point, the Committee concluded in paragraph 12 of its [General Comment Number 3](#) that even in times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programs.

The burden of showing that available resources are being or have been utilized to the highest possible extent rests on the State party. This principle provides a basis for mobilizing efforts against pervasive corruption and theft of national

resources by State officials that continues to hinder the capacity of many States to implement the rights under the Covenant.

“to [achieve] progressively the full realization of the rights”

This requires States to “move expeditiously and effectively as possible” towards the goal of full realization of the rights in the Covenant. It also does not allow an indefinite postponement of action vital to the enjoyment of the rights. In addition, some provisions of the Covenant, for example the prohibition of discrimination, require immediate observance and are therefore not subject to the principle of “progressive realization.”

### Equality and non-discrimination

Article 2(2) of the Covenant prohibits discrimination of any kind as to race, color, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, in the exercise of the enunciated in the Covenant. This provision offers a crucial benchmark for monitoring compliance or violation of the Covenant. The ESC rights approach views rights as freedoms and entitlements, and is grounded in the principles of equality and non-discrimination. The [United Nations Committee on the Elimination of Racial Discrimination](#) observed in [L.K. v. Netherlands](#) that the adoption of temporary measures intended to bring about de facto equality (i.e. affirmative action programs) is not a violation of the right to non-discrimination so long as such measures do not lead to the maintenance of unequal or separate standards for different groups and provided that they are not continued after the objective for which they are taken have been achieved. That observation reinforces the need to pay particular attention to [marginalized groups and individuals](#) vulnerable to rights violations at the hands of State and non-state actors.

## **Generic Obligations**

In addition to the obligations created under article 2(1) & (2), States Parties also bear generic obligations of conduct and obligations of outcome. More specifically, these are the obligations to respect, protect, promote, and fulfill economic, social and cultural rights. According to the U.N. Committee on Economic, Social and Cultural Rights [General Comment Number 3 on States Parties' Obligations](#), the concept of a minimum core obligation denotes a duty to satisfy “at the very least, minimum essential levels” of the rights recognized in the Covenant. The core content of a right refers to its constitutive elements without which the right is hollow and meaningless. It represents the threshold or baseline entitlement of the right that must be fulfilled by all States parties irrespective of their peculiar economic, social, political or other factors. Satisfaction of the minimum core content of a right by itself does not equate to full compliance with the Covenant, rather, it triggers the obligation ensure the full satisfaction of the right in all its other aspects.

### Obligation to Respect

States assume an obligation to refrain from actions or conduct that contravene or are capable of impeding the enjoyment of economic, social and cultural rights. Essentially, the obligation is neither contingent on “availability of resources” nor subject to the notion of “progressive realization”. The obligation to respect is of an immediate nature and simply implies respect for the rule of law.

### Obligation to Protect

This duty pertains to the regulatory functions of the State to prevent encroachments on economic, social and cultural rights, primarily, by non-state actors. It also implies a duty to punish violators of those rights. This may necessitate the adoption of legislative, administrative or policy measures to prevent unwarranted interference in the enjoyment of ESC rights by quasi-government authorities and other powerful economic and political interests in society. For example, in relation to the right to education, the equality and nondiscrimination principle of the Covenant requires the State to intervene to ensure that parents and legal guardians do not prevent equal access of boys and girls to educational opportunities. In this respect, Article 2(2) of the [Convention on the Rights of the Child](#), mandates States

parties to “take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child’s parents, legal guardians, or family members.” Similarly, by this obligation, the government is required to protect its tenant population from the wanton infractions by landlords of the right to adequate housing. It also obligates the government to protect its citizens from the extreme human and environmental devastation that may be wreaked by multinational companies.

### Obligation to Promote

This requires States parties to ensure the widest possible knowledge and awareness of ESC rights. For example, its promotional obligation may require that steps be taken to counter traditional beliefs and practices which inhibit enrolment of girls in schools, thereby expanding access to education. It may also mean a review of existing official information disclosure policies or the adoption of “freedom of information” legislation that would guarantee citizens’ access to important information.

### Obligation to Fulfill

Otherwise described as an ‘obligation of result or outcome’, the obligation to fulfill is easily the most problematic because it hinges on the identification of resources for the satisfaction of aspects of ESC rights. It is the responsibility of States to take steps towards the full implementation of all ESC rights. This obligation is said to be qualified by available resources and subject to progressive realization. But as the [United Nations Committee on Economic, Social and Cultural Rights](#) has explained, “available resources” must be equitably and judiciously used in the satisfaction of, at least, the minimum requirements of the rights, particularly to the advantage of the most vulnerable sections of the population. States parties bear the burden of showing that available resources are being or have been utilized to the highest possible extent in the fulfillment of the rights recognized under the Covenant. So it is simply not enough for a State to claim that it lacks the resources to achieve the fulfillment of ESC rights.

### International Obligations

In interpreting the [International Covenant on Economic, Social and Cultural Rights](#), the [Committee on Economic, Social and Cultural Rights](#) has consistently held that it is incumbent upon States parties and other actors in a position to assist, to provide “international assistance and cooperation, especially economic and technical” which can enable developing countries to fulfil their ESC rights obligations. For example, the international community has a duty to cooperate to enable the States parties to fulfil their obligations under the right to development.

### Right to Effective Remedy

States are obligated to ensure that victims of violations of ESC rights have access to effective remedy. See the UN Committee on Economic, Social and Cultural Rights in its General Comment on the Domestic Application of the Covenant (No. 9). See also the [Maastricht Guidelines on Violations of Economic, Social and Cultural Rights](#).

### **ESC Rights and Non-State Actors**

Two excellent resources on the obligations of non-state actors are an article on the [Work on Multilateral Development Bank from Ripple in Still Water](#) and [Non-State Actor’s Responsibility for Socio-Economic Rights](#). Further, standards governing non-state actors’ human rights responsibilities are ever-emerging. One such text is the [Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#) that states, in pertinent part,

- Multinational enterprises include enterprises, whether they are of public, mixed or private ownership, which own or control production, distribution, services or other facilities outside the country in which they are based. (Paragraph 6);

- Multinational enterprises play an important part in the economies of most countries and international relations. On one hand, they can contribute to the more efficient utilization of capital, technology and labour; promote economic and social welfare; and can contribute to the improvement of living standards and the satisfaction of basic needs. On the other hand, multinational enterprise operations may lead to abuse of concentrations of economic power, and conflicts with national policy objectives and the interests of workers. (Paragraph 1);
- Multinational enterprises should respect the sovereign rights of States, obey the national laws and regulations, give due consideration to local practices and respect relevant international standards. (Paragraph 8); and
- When multinational enterprises operate in developing countries, where comparable employers may not exist, they should provide the best possible wages, benefits and conditions of work, within the framework of government policies. These should be related to the economic position of the enterprise, but should be at least adequate to satisfy basic needs of workers and their families. Where they provide workers with basic amenities such as housing, medical care or food, these amenities should be of a good standard. (Paragraph 34)

Major advances in holding non-state actors accountable for social and economic rights violations are also apparent when examining privatization exercises where the public sector underwrites private investment risks and/or sells state-owned assets to private actors. Some of the attendant dangers of privatization from an ESC rights perspective include:

- a sharp decline in the extent of the quality and coverage to vulnerable groups;
- low level, or the complete lack of, accountability of providers of utility; and
- basic social services driven by market forces (i.e. rate of return and cost-recovery considerations) that do not always take account of the needs of marginalized groups, especially extremely poor people's inability to pay user charges for basic social services.

The [Public Services International Research Unit](#) is a good resource on specific ways that privatization in the healthcare, water, and waste removal services sectors can further marginalize the poor and other vulnerable groups.

The following case studies illustrate how human rights defenders have used the ESC rights approach to hold non-state actors accountable for ESC rights violations:

- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)
- [Caux Round Table: Principles for Business](#)
- [Living Wage Movement in USA](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)
- [Water Privateers Forced Out of Bolivia](#)
- [African Commission on Human and Peoples' Rights Decision on Communication 155/96  
\*The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary\*](#)

## What are the Specific ESC Rights?

ESC rights include the rights to:

- [an adequate standard of living](#)
- [work and rights at work](#)
- [adequate housing](#)
- [the highest attainable standard of health](#)
- [adequate food](#)
- [education](#)
- [a healthy environment](#)
- [water and sanitation](#)
- [family life](#)
- [benefit from scientific advancement](#)
- [social security](#)
- [life](#)
- [own land and other property](#)
- [self-determination](#)
- [participation](#)
- [development](#)
- [freedom of association](#)

### *Right to an Adequate Standard of Living*

A primary, guiding text on the right to an adequate standard of living is article 11(1) of the [International Covenant on Economic, Social and Cultural Rights](#) which provides, “[t]he States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

One common misconception about the right to an adequate standard of living is that it limitedly covers food, clothing and housing needs. However, the [United Nations Committee on Economic, Social and Cultural Rights](#), the principal supervisory body to the [International Covenant on Economic Social and Cultural Rights](#), has concluded that the constituent rights emanating from article 11(1) of the Covenant’s recognition of the right to an adequate standard of living are not limited to food, clothing and housing. For example, in its [General Comment Number 15](#), the Committee found that [the right to water](#) falls within the category of guarantees essential for securing an adequate standard of living.

### Minimum Core Content

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to an adequate standard of living. At bare minimum, the right includes:

- \* adequate care to enable all to meet their basic needs under conditions of dignity. Such care may necessarily include reasonable accommodations and assistive services for [persons with Disabilities](#), [children](#), [persons with Disabilities](#), and others who are denied their economic and social rights;
- \* continuous improvement of living conditions;

- \* adequate prevention and control of disease;
- \* available, accessible and cultural adequate clothing;
- \* the core obligations of the rights to [adequate food](#), [adequate housing](#), [water](#), and [life](#); and
- \* international cooperation on realizing the right to an adequate standard of living.

Some important quantifying and qualifying tools that is useful when monitoring program service delivery on the right to an adequate standard of living include:

- [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#)
- [Poverty Matrix](#)
- [Key Indicator Mapping Systems \(KIMS\)](#)
- [Key Indicator Data Systems \(KIDS\)](#)
- [Africa Household Survey Databank](#)
- right to [adequate food](#), [adequate housing](#), [water](#), and [life](#) indicators

### **Right to an Adequate Standard of Living Dossier**

Article 25(1) of the [Universal Declaration of Human Rights](#)

Article 11(1) [International Covenant on Economic, Social and Cultural Rights](#)

Article 27(3) [Convention on the Rights of the Child](#)

Preamble (a), 14 of [Charter of Economic Rights and Duties of States](#)

Articles 11, 12 of [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; “Protocol of San Salvador”](#)

Article 55(a) of [Charter of the United Nations](#)

Preamble, [Employment Policy Convention](#)

III(a) of [Declaration Concerning the Aims and Purposes of the International Labour Organisation \(“Declaration of Philadelphia”\)](#)

Articles I(4), II(4)(1) of the [European Social Charter](#)

Articles 9, 10(c), 17(c) of the [Declaration on Social Progress and Development](#)

[Vancouver Declaration on Human Settlements](#)

[Universal Declaration on Eradication on Hunger and Malnutrition](#)

[Istanbul Declaration on Human Settlements](#)

[right to adequate housing dossier](#)

[right to adequate food dossier](#)

[right to water dossier](#)

[right to life dossier](#)

### **Potential Right to an Adequate Standard of Living Violations**

Some potential right to an adequate standard of living violations include:

- [right to adequate food violations](#)
- [right to adequate housing violations](#)
- [right to water violations](#)
- [right to life violations](#)

In addition, the [Public Services International Research Unit](#) is a good resource on specific ways that privatization in the healthcare, water, and waste removal services sectors can further marginalize the poor and other vulnerable groups.

### **Key Right to an Adequate Standard of Living Developments and Sample Best Practices**

Significant advances toward the full realization of the right to an adequate standard of living continue to be made. Some initial resources on the right are:

[Right to Adequate Housing Special Rapporteur Reports and Statements](#)

[Right to Adequate Food Special Rapporteur Reports and Statements](#)

[Reports and Statements from the Independent Expert on Structural Adjustment Policies and Foreign Debt](#)

[Right to Water Special Rapporteur Reports](#)

[\*Olga Tellis v. Bombay Municipal Corporation\*](#)

The following case studies and summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to an adequate standard of living:

- [\*Shantistar Builders v. Narayan Khimali Tatome and Others Case Summary\*](#)

- [Amilcar Menéndez, Juan Manuel Caride y otros Case Summary](#)
- [Water Privateers Forced Out of Bolivia](#)
- [Living Wage Movement in USA](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)
- [Hoffman v. South African Airways Case Summary](#)
- [African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary](#)

### **General Comments Relating to the Right to an Adequate Standard of Living**

[U.N. Committee on Economic, Social and Cultural Rights General Comment Number 4 on the Right to Adequate Housing](#)

[U.N. Committee on Economic, Social and Cultural Rights General Comment Number 12 on the Right to Food](#)

[U.N. Committee on Economic, Social and Cultural Rights General Comment Number 15: The Right to Water](#)

[U.N. Human Rights Committee General Comment Number 6](#)

[U.N. Committee on Economic, Social and Cultural Rights Statement on Poverty](#)

[U.N. Committee on Economic, Social and Cultural Rights Statement to the 3<sup>rd</sup> Ministerial Conference of the World Trade Organization](#)

### ***Right to Work and Rights at Work***

A primary guiding text on the right to work and rights at work is the [International Covenant on Economic, Social and Cultural Rights](#) which states, in pertinent part,:

Article 6:

1. The States Parties to the present Covenant recognize the right to work,
2. which includes the right of everyone

to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

## Article 7:

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:

(a) remuneration which provides all workers, as a minimum with:

(i) fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) a decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.

## Article 8:

1. The States Parties to the present Covenant undertake to ensure:

(a) the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedom of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

An excellent resource on this right is [Module 10 of Circle of Rights on “The Right to Work and Rights at Work”](#).

**Minimum Core Content**

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core

obligations with respect to the right to work and rights at work. States are obligated to ensure the right to:

- A) gain his or her living by work;
- B) work that he or she freely chooses or accepts;
- C) right to productive work;
- D) just and favorable remuneration;
- E) fair wages and equal remuneration for equal work of equal value;
- F) dignified, safe and healthy working conditions;
- G) rest and leisure, reasonable working hours and periodic holidays with pay;
- H) right to form and join trade unions;
- I) right of trade unions to organize; and
- J) technical and vocational education made freely available.

One important quantifying and qualifying tool that is useful when monitoring program service delivery on the right to work and rights at work is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#).

### **Right to Work and Rights at Work Dossier**

Articles 6-8 [International Covenant on Economic, Social and Cultural Rights](#)

#### [Employment Policy Convention](#)

Articles 6, 7 of the [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights: “Protocol of San Salvador”](#)

Articles 15, 29(6) of the [African Charter on Human and Peoples’ Rights](#)

Article (5)(e)(i) of the [International Convention on the Elimination of All Forms of Racial Discrimination](#)

Articles 11(a), 11(1), 11(b), 11(c), 11(d), 11(2) of the [Convention on the Elimination of All Forms of Discrimination Against Women](#)

Articles 17(1), 17(3) of the [Convention Relating to the Status of Refugees](#)

17(1), 17(2) of the [Convention Relating to the Status of Stateless Persons](#)

Articles 23(1), 23(2), 23(4) of the [Universal Declaration of Human Rights](#)

Articles I(1), I(3), I(4), I(5-6, 8-10), II(1), II(3-6, 8-10) of the [European Social Charter](#)

Article 13 of the [Cairo Declaration on Human Rights in Islam](#)

5-6(a,b,d) of the [Declaration on the Basic Duties of Association of Southeast Asian Nations \(ASEAN\) Peoples' and Governments](#)

Articles 6, 10(a), 20(a), 20(b) of the [Declaration on Social Progress and Development](#)

Articles 8(1)(a), 8(1)(b) of [Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live](#)

3 of [Declaration on the Rights of Mentally Retarded Persons](#)

Article 7 of [Declaration on the Rights of Disabled Persons](#)

Article 8(3) of [International Covenant on Civil and Political Rights](#)

I(13) of the [Conference on Security and Cooperation in Europe: Final Act](#)

### **Potential Right to Work Violations**

One common misconception surrounding the right to work is that, when it is fully realized, everyone has a job. To the contrary, the right to work and its associated provisions do not require that the State provides everyone with a job. But, the State must meet the non-derogable core obligations of the right in line with its generic obligations under the International Covenant on Economic, Social and Cultural Rights.

In this regard, for example, the State must align its macroeconomic policies and relationships to promote and protect the right to work and rights at work. Between 1978 and 1995, unemployment rose in 72% of the countries on which the [International Labour Organisation \(ILO\)](#) tracked and published statistics during the years that they received funding from the [International Monetary Fund](#).

### **Key Right to Work Developments and Sample Best Practices**

The following case summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to work and rights at work:

- [Living Wage Movement in USA](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)
- [Hoffman v. South African Airways Case Summary](#)
- [Campaign for the Rights of Informal Workers](#)

### ***Right to Adequate Housing***

[United Nations Special Rapporteur on the Right to Adequate Housing's](#) working definition of the human right to adequate housing is the right of every woman, man, youth and child to gain and sustain a secure home and community in which to live in peace and dignity.

Worldwide, there are at least 100 million people living with no shelter at all, with between 30-70 million children living on the streets. Distressed housing can take many forms, including: slums and squatter settlements, old buses, shipping containers, pavements, railway platforms, streets and roadside embankments, cellars, staircases, elevator

enclosures, cages, cardboard boxes, plastic sheets and aluminum and tin shelters.

A primary, guiding text on the right to adequate housing is article 11(1) of the [International Covenant on Economic, Social and Cultural Rights](#) which provides, “The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”

As clarified by the [United Nations Special Rapporteur on the Right to Adequate Housing](#), the right does not imply that:

- (A) the State is required to build housing for the entire population;
- (B) housing is to be provided free of charge by the State to all who request it;
- (C) the State must necessarily fulfil all aspects of this right immediately upon assuming duties to do so;
- (D) the State should exclusively entrust either itself or the unregulated market to ensuring this right to all; or
- (E) this right will manifest itself in precisely the same manner in all circumstances or locations.

### Minimum Core Content

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to adequate housing. Adequate housing, at minimum, requires:

- (A) legal security of tenure including legal protection against forced evictions;
- (B) availability of services, materials, facilities and infrastructure;
- (C) affordability;
- (D) habitability (e.g., adequate privacy, security, lighting and ventilation);
- (E) accessibility for disadvantaged groups;
- (F) adequate location with regard to work and basic facilities; and
- (G) cultural adequacy (*see* [Module 17 on “Cultural Rights” from Circle of Rights](#)).

Two important quantifying and qualifying tools that are useful when monitoring service delivery on the right to adequate housing include the:

- [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#)
- [Housing Rights Barometer](#)

### Housing Rights Dossier

[Habitat International Coalition Legal Sources of the Human Right to Housing](#)

Article 11(1) of [International Covenant on Economic, Social and Cultural Rights](#)

Paragraph 39 of the [Habitat Agenda for the Second United Nations Conference on Human Settlements](#)

Paragraph 27 of the [U.N. General Assembly Resolution A/RES/S-27/2, “A World Fit for Children](#)

Paragraphs 8,33,48-49, 81, 92, 100, 102, 108 of the [Declaration and Programme of Action of the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance](#)

[General Recommendation Number 18 of Committee on the Elimination of All Forms of Discrimination Against Women on Disabled Women](#)

Paragraph 5, [Commission Resolution 2001/34 on Women’s Equal Ownership of, Access to and Control Over Land and the Equal Rights to Own Property and to Adequate Housing](#)

Article 25(1) of [Universal Declaration of Human Rights](#)

Article 14(2) of [Convention on the Elimination of All Forms of Discrimination Against Women](#)

Articles 16(1), 27(3) of [Convention on the Rights of the Child](#)

Article 21 of the [Convention Relating to the Status of Refugees](#)

Article 5(e)(iii) of [International Convention on the Elimination of All Forms of Racial Discrimination](#)

Article 17(1) of [International Covenant on Civil and Political Rights](#)

Article 43(1) of the [International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#)

Principle 4 of the [Declaration on the Rights of the Child](#)

[ILO Recommendation Number 115 Concerning Worker’s Housing](#)

part 2, Article 10 of [Declaration on Social Progress and Development](#)

Article 9 of [Declaration on the Rights of Disabled Persons](#)

Section 3.8, Chapter 2.A.3 of the [Vancouver Declaration on Human Settlements](#)

Article 9(2) of the [Declaration on Race and Racial Prejudice](#)

Article 8(1) of the [Declaration on the Right to Development](#)

[Global Strategy for Shelter to the Year 2000](#)

[ILO Recommendation Concerning Worker’s Housing](#)

[Declaration on Cities and Other Human Settlements in the New Millennium](#)

[Comprehensive Human Rights Guidelines on Development-Based Displacements](#)

## Potential Right to Housing Violations

Some potential right to housing violations include:

- forced evictions (See [Fact Sheet 25 - Forced Evictions and Human Rights, Forcibly Evicted Persons](#), *Violence: The Impact of Forced Evictions on Women in Palestine, India and Nigeria*, and [Committee on Economic, Social and Cultural Rights General Comment Number 7](#)).
- social housing shortages for single-parent and low-income families
- housing discrimination
- lack of a coherent national strategy regarding housing rights

## Key Housing Rights Developments and Sample Best Practices

Significant advances toward the full realization of the right to adequate housing continue to be made. Some initial resources on the right are:

### [Special Rapporteur Reports and Statements](#)

[Module 13 of \*Circle of Rights\* on “The Right to Adequate Housing”](#)

[Olga Tellis v. Bombay Municipal Corporation](#)

[United Nations Office of the High Commission for Human Rights’ website on Housing](#)

[Habitat International Coalition Tool Kit](#)

[Centre on Housing Rights and Evictions \(COHRE\)](#)

[Government of the Republic of South Africa, et al. v. Irene Grootboom, et al.](#)

[The Applicability of the Prevention of Illegal Eviction Act: \*Ndlovu v. Ngobo\* and \*Bekker & Bosch v. Jika\*](#)

The following case studies and summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to adequate housing:

- [Shantistar Builders v. Narayan Khimali Tatome and Others Case Summary](#)
- [The Maroko Community’s Quest for Resettlement, Rehabilitation and Reconciliation](#)
- [Sandra Lovelace v. Canada](#)
- [L.K v. Netherlands](#)
- [African Commission on Human and Peoples’ Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary](#)

## General Comments on the Right to Housing and Forced Evictions

[General Comment Number 4: The Right to Adequate Housing](#)

## [General Comment Number 7: Forced Evictions](#)

### ***Right to the Highest Attainable Standard of Health***

A primary, guiding text on the right to the highest attainable standard of health is article 12 of the [International Covenant on Economic, Social and Cultural Rights](#) which provides:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:
  - (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
  - (b) The improvement of all aspects of environmental and industrial hygiene;
  - (c) The prevention, treatment and control of epidemic, endemic, occupational and other disease;
  - (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

An additional resource on this topic is [Module 14 of Circle of Rights on “The Right to Health”](#).

### **Minimum Core Content**

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to health. States are obligated:

- \* to ensure the right of physical and economic access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups. This core obligation includes the right to access to trained medical and professional personnel who receive domestically competitive salaries;
- \* to ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;
- \* to ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;
- \* to provide essential drugs, as from time to time defined under the [World Health Organisation Action Programme on Essential Drugs](#);
- \* to ensure equitable distribution of all health facilities, goods and services; and

\* to adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalized groups.

The full realization of the right to the highest attainable standard of health also requires that:

- \* health services be culturally appropriate, taking into account traditional preventative care, healing practices and medicines (*See [Module 17 of Circle of Rights on “Cultural Rights”](#)*);
- \* the right to control one’s health and body, including treatment refusals, and sexual and reproductive freedoms be respected;
- \* reproductive, maternal (pre-natal as well as post-natal) and child health care are ensured;
- \* immunization against the major infectious diseases occurring in the community be provided;
- \* measures to prevent, treat and control epidemic and endemic diseases be taken;
- \* education and access to information concerning the main health problems in the community, including methods of preventing and controlling them be provided;
- \* appropriate training for health personnel, including education on health and human rights be provided;
- \* healthy occupational and environmental conditions be assured;
- \* equal and timely access to basic preventative, curative, rehabilitative health services and health education be ensured;
- \* the right to be free from interference such as torture and non-consensual medical treatment and experimentation be protected;
- \* the confidentiality of personal health data be assured; and
- \* the right to seek, receive and impart information about health issues be protected.

Some important quantifying and qualifying tools that are useful when monitoring program service delivery on the right to health include the:

- [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#)
- [Health Indicators and Budget Analysis](#)
- [Demographic Health Survey](#)

## **Right to Health Dossier**

Articles 12(1), 12(2) of the [International Covenant on Economic, Social and Cultural Rights](#)

Article 25(1) of the [Universal Declaration of Human Rights](#)

Article 5(e)(iv) of [International Convention on the Elimination of All Forms of Racial Discrimination](#)

Articles 11.1(f), 12 of [Convention on the Elimination of All Forms of Discrimination Against Women](#)

Article 24 of the [Convention on the Rights of the Child](#)

Article 11 of the [European Social Charter](#)

Article 16 of the [African Charter on Human and Peoples' Rights](#)

Article 10 of the [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; "Protocol of San Salvador"](#)

[Principles for the Protection of Persons with Mental Illnesses and the Improvement of Mental Health Care](#)

[Fourth World Conference on Women: Beijing Declaration](#)

[1978 Declaration of Alma-Ata on Primary Health Care](#)

Article 34 of the [Organisation of American States Charter](#)

### **Potential Right to Health Violations**

Some potential right to health violations include:

- the State outlawing all forms of traditional healthcare
- forced sterilizations
- the trafficking of human beings, including the sale of human organs

In addition, the [Public Services International Research Unit](#) is a good resource on specific ways that privatization in the healthcare sector can further marginalize the poor and other vulnerable groups.

### **Key Health Rights Developments and Sample Best Practices**

Significant advances toward the full realization of the right to health continue to be made. Some initial resources on the right are:

[June 9, 1998 Amparo action against the Venezuela Ministry of Health](#)

[Minors Oposa v. Secretary of the Department of Environmental Natural Resources \(DENR\)](#)

[François-Xavier Bagnoud Center for Health and Human Rights \(Harvard University\)](#)

[General Comment Number 14 on the Right to the Highest Attainable Standard of Health](#)

[Special Rapporteur Reports and Statements](#)

The following case studies and summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to health:

- [Amilcar Menéndez, Juan Manuel Caride y otros Case Summary](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)
- [Pashim Banga Khet Mazdoor Samity v. State of West Bengal Case Summary](#)
- [African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary](#)

### ***Right to Food***

A primary, guiding text on the right to food is article 11 of the [International Covenant on Economic, Social and Cultural Rights](#) which provides:

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.
2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:
  - (a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;
  - (b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

### **Minimum Core Content**

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to food. States are obligated to ensure:

- \* the availability of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture;
- \* economic and physical accessibility of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights;
- \* the right to be free from hunger and malnutrition in order to develop fully and maintain physical and mental facilities;
- \* non-discriminatory access to sufficient food that is balanced and safe enough to satisfy nutritional requirements for physical and mental growth, development and maintenance, and physical activity that is in compliance with human physiological needs at all stages throughout the life cycle and according to

gender and occupation;

\* non-discriminatory access to culturally acceptable food that conforms as much as possible to perceived non-nutrient based values attached to food (See [Module 17 of Circle of Rights on Cultural Rights](#)); and

\* non-discriminatory access food in a manner which does not destroy one's dignity.

The obligation to promote human rights may extend to the development of coherent indicators and benchmarks for measuring the effectiveness of the government's policies and measures to achieve the realization economic, social and cultural rights. The [United Nations Committee on Economic, Social and Cultural Rights](#) advises that the right to food should not be "interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients." Some important quantifying and qualifying tools that are useful when monitoring program service delivery on the right to food include the:

- [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#)
- [U.N. Food and Agriculture Organization's Food Insecurity and Vulnerability Information Mapping System \(FIVIMS\)](#)
- [Key Indicator Mapping Systems \(KIMS\)](#)
- [Key Indicator Data Systems \(KIDS\)](#)
- [Africa Household Survey Databank](#)

## **Right to Food Dossier**

Articles 11(1), 11(2) of the [International Covenant on Economic, Social and Cultural Rights](#)

Article 12 of the [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; "Protocol of San Salvador"](#)

[United Nations Food and Agriculture Organization \(FAO\) Constitution](#)

Article 25(1) of the [Universal Declaration of Human Rights](#)

Article 10(b) of the [Declaration on Social Progress and Development](#)

[Universal Declaration on the Eradication of Hunger and Malnutrition](#)

[Declaration on the Right to Development](#)

[International Conference on Nutrition World Declaration on Nutrition](#)

[Codex Alimentarius Commission of the Code of Ethics for International Trade in Food](#)

[Draft Code of Conduct on the Right to Adequate Food](#)

[Rome Declaration on World Food Security](#)

## Potential Right to Food Violations

Some potential right to food violations include:

- using food aid as a political weapon
- enacting statutes that outlaw breastfeeding
- maintaining insufficient measures to prevent public and private contamination of foodstuffs

## Key Food Rights Developments and Sample Best Practices

Significant advances toward the full realization of the right to food continue to be made. Some initial resources on the right are:

[Module 12 of \*Circle of Rights\* on “The Right to Adequate Food”.](#)

[FoodFirst](#)

[World Food Programme](#)

[United Nations High Commissioner for Refugees](#)

[Fighting malnutrition in Ethiopia and Eritrea](#)

[UNICEF](#)

[Intergovernmental Working Group on the Right to Food](#)

[Legislative Study on the Right to Food](#)

[U.N. Food and Agriculture Organization](#)

[The Hunger Site](#)

[Oxfam](#)

[General Comment Number 12 on the Right to Adequate Food](#)

[Special Rapporteur Reports and Statements](#)

The following case summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to food:

- [Shantistar Builders v. Narayan Khimali Tatome and Others Case Summary](#)
- [African Commission on Human and Peoples’ Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary](#)

## *Right to Education*

A primary, guiding text on the right to education is the [International Covenant on Economic, Social and Cultural Rights](#) which provides:

### Article 13:

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognized that, with a view to achieving the full realization of this right:

(a) Primary education shall be compulsory and available free to all;

(b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;

(c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;

(d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum education standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

### Article 14:

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge to all.

## **Minimum Core Content**

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to education. States are obligated to ensure:

- \* non-discriminatory physical and economic access to functioning educational institutions and programs available in sufficient quantity within a State Party's jurisdiction;
- \* acceptability in terms of the form and substance of the education, including curricula and teaching methods;
- \* adaptable education that responds to the needs of students within their diverse social and cultural settings (See [Module 17 on "Cultural Rights" from Circle of Rights](#));
- \* compulsory primary education available free to all;
- \* secondary education in its different forms generally made available and accessible to all by every appropriate means;
- \* higher education in its different forms made available on the basis of capacity;
- \* technical and vocational education made generally available;
- \* the right to educational freedom, including: (1) respect for the liberty of parents and guardians to ensure the religious and moral education of their children in conformity with their own convictions, and (2) the liberty of parents and guardians to choose educational institutions other than public schools for their children, provided the schools conform to such minimum educational standards as may be laid down or approved by the State;
- \* the obligation of the State to ensure that the liberty of everyone to establish and direct educational institutions does not lead to extreme disparities of educational opportunity for some groups in society;
- \* continuous improvement of the material conditions of teaching staff;
- \* an overall developmental strategy for school systems;
- \* an adequate fellowship system; and
- \* the academic freedom to pursue, develop and transmit knowledge and ideas through research, teaching, study, discussion, documentation, production, creation or writing.

Two important quantifying and qualifying tools that are useful when monitoring program service delivery on the right to education are the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#) and the [millennium development goals](#).

### **Right to Education Dossier**

Articles 13-14 of the [International Covenant on Economic, Social and Cultural Rights](#)

Article 18(4) of the [International Covenant on Civil and Political Rights](#)

Article (2) of the [European Convention for the Protection of Human Rights and Fundamental Freedoms Protocol](#)

Article 12 of the [American Convention on Human Rights](#)

Articles 14, 15, 18 of the [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; “Protocol of San Salvador”](#)

Article 17 (1)(3) of the [African Charter on Human and Peoples’ Rights](#)

1, 2(b)(c) of the [United Nations Educational, Scientific and Cultural Organisation Constitution](#)

[Convention Against Discrimination in Education](#) and its Protocol

Article 5(e)(v) of the [International Convention on the Elimination of All Forms of Racial Discrimination](#)

Article 10 of [Convention on the Elimination of All Forms of Discrimination Against Women](#)

Articles 28-29 of the [Convention on the Rights of the Child](#)

22 of the [Convention Relating to the Status of Stateless Persons](#)

77 of the [Standard Minimum Rules for the Treatment of Prisoners](#)

[Declaration on Race and Racial Prejudice](#)

Article 8(c) of [Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live](#)

Article 26 of the [Universal Declaration of Human Rights](#)

[Charter of the United Nations](#)

Articles I(10), (15) of the [European Social Charter](#)

Article 9 of the [Cairo Declaration on Human Rights in Islam](#)

6 of the [Declaration on the Basic Duties of Association of Southeast Asian Nations \(ASEAN\) Peoples’ and Governments](#)

Articles 10(8), 21 of the [Declaration on Social Progress and Development](#)

8(c) of [Declaration on the Rights of Disabled Persons](#)

### **Key Right to Education Cases and Developments**

Significant advances toward the full realization of the right to education continue to be made. Some initial resources on

the right are:

[Special Rapporteur Reports and Statements](#)

[Module 16 of \*Circle of Rights\*, “The Right to Education”](#)  
[Belgian Linguistic Case Number 2](#)

[June 9, 1998 Amparo action against the Venezuela Ministry of Health](#)

[Right to Education - UNICEF](#)

[www.right-to-education.org](http://www.right-to-education.org)

[General Comment Number 11: Plan of Action for Primary Education](#)

[General Comment  
Number 13: The Right to Education](#)

### ***Right to a Healthy Environment***

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to a healthy environment. For example, States are obligated to: (1) monitor and ensure the improvement of all aspects of environmental and industrial hygiene, (2) take reasonable and other measures to prevent pollution and ecological degradation, and (3) promote conservation and ecologically sustainable development when using natural resources. The [United Nations Special Rapporteur on Toxic Waste Dumping](#) is one good source of information about how governments and non-state actors can meet their right to a healthy environment obligations. For general information about this right, [Module 15 of \*Circle of Rights\* on “The Right to a Healthy Environment”](#) serves as another good resource.

One important quantifying and qualifying tool that is useful when monitoring program service delivery on the right to a healthy environment is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#).

### **Right to a Healthy Environment Dossier**

[Vienna Convention of the Protection of the Ozone Layer](#)

[Montreal Protocol on Substances that Deplete the Ozone Layer](#)

[Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal](#)

[Framework Convention on Climate Change](#)

[Rio Declaration and Plan of Action \(Agenda 21\)](#)  
[Convention on Biological Diversity](#)

[African Charter on Human and Peoples’ Rights](#)

## [Draft Declaration of Principles on Human Rights and the Environment](#)

### **Key Right to a Healthy Environment Developments and Sample Best Practices**

Jurisprudence on the right to a healthy environment is ever-emerging. Two important cases are [Minors Oposa v. Secretary of the Department of Environmental Natural Resources \(DENR\)](#) and [Mexico v. Metalclad](#).

The following case summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to a healthy environment:

- [Shantistar Builders v. Narayan Khimali Tatome and Others Case Summary](#)
- [African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary](#)

### ***Right to Water and Sanitation***

A primary, guiding text on the right to water and sanitation is articles 11 and 12 of the [International Covenant on Economic, Social and Cultural Rights](#). When the right to water is fully realized, people have access to a sufficient quantity and quality of water to meet their basic needs that is supplied under the best possible conditions in a non-discriminatory manner.

#### **Minimum Core Content**

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to water. States are obligated to ensure:

- \* the right to fresh, safe and sufficient water that is of an acceptable color, odor and taste for each personal or domestic use;
- \* right to be free from interference, such as the right to be free from arbitrary disconnections or contamination of water supplies;
  - the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water;
- \* non-discriminatory economic and physical access to potable water and water facilities such as piped water networks, water tankers, rivers and wells;
- \* adequate sanitation;
- \* that the water supply for each person must be sufficient and continuous for personal and domestic uses;
- \* that the water required for each personal or domestic use must be safe, therefore free from micro-organisms, chemical substances and radiological hazards that constitute and threat to a person's health; and
- \* the right to seek, receive and impart information concerning water issues.

One important quantifying and qualifying tool that is useful when monitoring program service delivery on the right to

water is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#). As a caveat, the [United Nations Committee on Economic, Social and Cultural Rights](#) advises that the adequacy of water should not be interpreted narrowly by mere reference to volumetric quantities and technology.

### **Right to Water and Sanitation Dossier**

Articles 11(1), 11(2)(a) of the [International Covenant on Economic, Social and Cultural Rights](#)

Article 12(2)(b) [Universal Declaration on the Eradication of Hunger and Malnutrition](#)

Article 14(2) of [Convention on the Elimination of All Forms of Discrimination Against Women](#)

Article 24(2) [Convention on the Rights of the Child](#)

Articles 20,26,29,46 of the [Geneva Convention relative to the Treatment of Prisoners of War](#)

Articles 85,89,127 of the [Geneva Convention relative to the Treatment of Civilian Persons in Time of War](#)

Articles 54 and 55 of the Additional Protocol I of 1977 to the Geneva Convention relative to the Treatment of Civilian Persons in Time of War

Articles 5 and 14 of the Additional Protocol II of 1977 to the Geneva Convention relative to the Treatment of Civilian Persons in Time of War

Preamble, Mar Del Plata Action Plan of the United Nations Water Conference

Paragraph 18.47 of [Agenda 21](#)

Principle Number 3, The Dublin Statement on Water and Sustainable Development

Principle Number 2, Programme of Action of the 1994 United Nations Conference on Population and Development

Paragraphs 5 and 19 Recommendation 14 of the Committee of Ministers to Member States on the European Charter on Water Resources

Resolution 2002/6 of the United Nations Sub-Commission on the Promotion and Protection of Human Rights on the promotion and protection of the right to drinking water

### **Potential Right to Water Violations**

Some potential right to water violations include:

- Excluding women from decision-making processes concerning water resources and entitlements; and
- Maintaining ineffective regulatory systems that permit private actors that operate or control water services to restrict economic and physical access to sufficient, safe and acceptable water based on schemes that are discriminatory and unaffordable.

### **Key Right to Water Developments and Sample Best Practices**

Major advances in holding non-state actors accountable for social and economic rights violations are also apparent when examining privatization exercises where the public sector underwrites private investment risks and/or sells state-owned assets to private actors. Some of the attendant dangers of privatization from an ESC rights perspective include:

- a sharp decline in the extent of the quality and coverage to vulnerable groups;
- low level, at best, or complete lack of, at worst accountability of operators; and
- basic social services driven by market forces (i.e. rate of return and cost-recovery considerations) that impact negatively on access to services by marginalized groups and poor people.

The [Public Services International Research Unit \(PSIRU\)](#) is a good resource on specific ways that privatization in the water sector can further marginalize the poor and other vulnerable groups. Of particular note is PSIRU's criticisms of the [World Bank's water resources sector strategy](#).

### [General Comment Number 15 on the Right to Water](#)

#### [Special Rapporteur Report](#)

The following case summary illustrates how human rights defenders have used the ESC rights approach to promote and protect the right to water and sanitation:

- [Water Privateers Forced Out of Bolivia](#)

### *Right to Family Life*

A primary guiding text on the right to family life is the [International Covenant on Economic, Social and Cultural Rights](#) which provides in article 10:

The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period, working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

The [United Nations Human Rights Committee](#) has clarified in its General Comment Number 28 that, "in giving full effect to the recognition of family in the context of ([International Covenant on Civil and Political Rights](#)) article 23, it is important to accept the concept of the various forms of family, including unmarried couples and their children and single parents and their children, and to ensure the equal treatment of women in these contexts ... "

## Minimum Core Content

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to family life. States are obligated to ensure:

- \* the right of men and women of marriageable age to marry;
- \* free and full consent of intending spouses;
- \* right to found a family as a result of the marriage;
- \* right of family to protection of society and state;
- \* equal rights of both spouses;
- \* protection of children of a marriage in the event of its dissolution; and
- \* participation in cultural life (*See [Module 17 of Circle of Rights on “Cultural Rights”](#)*).

One important quantifying and qualifying tool that is useful when monitoring program service delivery on the right to family life is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#).

## Right to Family Life Dossier

Article 10 of the [International Covenant on Economic, Social and Cultural Rights](#)

Article 23 of the [International Covenant on Civil and Political Rights](#)

Article 12 of the [European Convention for the Protection of Human Rights and Fundamental Freedoms](#), and 7 (5) of its Protocol

Article 17 of the [American Convention on Human Rights](#)

Article 15 of the [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; “Protocol of San Salvador”](#)

Articles 18(1), 18(2), 27(1), 29(1) of the [African Charter on Human and Peoples’ Rights](#)

Articles 16, 11(2), 11(1) of [Convention on the Elimination of All Forms of Discrimination Against Women](#)  
[Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#)

Article 11(c) of the [Convention Concerning Forced Labour](#)

Article 16 of the [Universal Declaration of Human Rights](#)

Article 5 of the [Cairo Declaration on Human Rights in Islam](#)

5(2) of the [Declaration on the Basic Duties of Association of Southeast Asian Nations \(ASEAN\) Peoples' and Governments](#)

Articles I(1-17), II (16-17) of the [European Social Charter](#)

Article 4 of the [Declaration on Social Progress and Development](#)

III (1)(a)(b)(c) of the [Conference on Security and Cooperation in Europe](#)

### **Potential Right to Family Life Violations**

Some potential right to family life violations include:

- Marriage restrictions based on health;
- Forced sterilizations; and
- Child labor

### **Key Right to Family Life Developments and Sample Best Practices**

The following case summary illustrates how human rights defenders have used the ESC rights approach to promote and protect the right to family life:

- [African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary](#)
- [Sandra Lovelace v. Canada](#)

### ***Right to Benefit from Scientific Advancement***

A primary guiding text on the right to benefit from scientific advancement is the [International Covenant on Economic, Social and Cultural Rights](#) which provides:

Article 15:

1. The States Parties to the present Covenant recognize the right of everyone:

... (b) To enjoy the benefits of scientific progress and its applications,

(c) To benefit from the protection of the moral and material interest resulting from any scientific, literary or artistic production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

### **Minimum Core Content**

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to benefit from scientific advancement. For example, States are obligated to facilitate the conservation, development and diffusion of science and culture. One potential violation of the right to benefit from scientific advancement is denying access to drugs or advancements in medical technology.

One important quantifying and qualifying tool that is useful when monitoring program service delivery on the right to benefit from scientific advancement is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#).

### **Right to Benefit from Scientific Advancement Dossier**

Article 15 of the [International Covenant on Economic, Social and Cultural Rights](#)

Article 16 of the [Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; "Protocol of San Salvador"](#)

Article 7 of the [International Covenant on Civil and Political Rights](#)

[Declaration on Social Progress and Development](#)

[Charter of Economic Rights and Duties of States](#)

[Declaration on the Use of Scientific and Technological Progress in the Interest of Peace and for the Benefit of Mankind](#)

### **Key Right to Benefit from Scientific Advancement Cases and Developments**

Significant advances toward the full realization of the right to benefit from scientific advancement continue to be made. One initial resource on the right is:

[June 9, 1998 Amparo action against the Venezuela Ministry of Health](#)

### ***Right to Social Security***

A primary guiding text on the right to social security is the [International Covenant on Economic, Social and Cultural Rights](#) which provides:

Article 9:

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations

with respect to the right to social security. For example, States are obligated to ensure:

- stable access to essential social services for people in need, including social assistance, medical care, food, housing, employment, training, education and culture;
  - available, accessible and time-effective avenues to redress social security rights violations;
- and
- equal and non-discriminatory rules and procedures governing eligibility for social security programs and termination of benefits or social insurance programs.

Consistent with U.N. Committee on Economic, Social and Cultural Rights [General Comment Number 3](#), even in times of severe resource constraints, the vulnerable members of society must be protected by the adoption of relatively low-cost targeted programs. One important quantifying and qualifying tool that is useful when monitoring program service delivery on the right to social security is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#).

### **Social Security Rights Dossier**

Article 9 of the [International Covenant on Economic, Social and Cultural Rights](#)

Articles 22, 25 of the [Universal Declaration of Human Rights](#)

Article 13 of the [Cairo Declaration on Human Rights in Islam](#)

6(d) of the [Declaration on the Basic Duties of Association of Southeast Asian Nations \(ASEAN\) Peoples' and Governments](#)

Articles 12, II(12) of the [European Social Charter](#)

Article 26 of the [Convention on the Rights of the Child](#)

102, 157 of the [Social Security \(Minimum Standards\) Convention](#)

[Employment Promotion and Protection Against Unemployment Convention](#)

[Maternity Protection Convention \(Revised\)](#)

[Beijing Declaration and Platform of Action](#)

[Copenhagen Declaration and Programme of Action](#)

[Maintenance of Social Security Rights Convention](#)

[Medical Care and Sickness Benefits Convention](#)

[Employment Injury Benefits Convention](#)

[Invalidity, Old Age and Survivor Benefits Convention](#)

## [Equality of Treatment \(Social Security\) Convention](#)

### **Key Social Security Developments and Sample Best Practices**

Significant advances toward the full realization of the right to social security continue to be made. Some initial resources on the right are:

#### [Module 11 of \*Circle of Rights\* on “Social Security as a Human Right”](#)

*Ibrahima Gueye, et al. v. France*, Communication No. 196/1983.

The following case summary illustrates how human rights defenders have used the ESC rights approach to promote and protect the right to social security:

- [Amilcar Menéndez, Juan Manuel Caride y otros Case Summary](#)
- [Pashim Banga Khet Mazdoor Samity v. State of West Bengal Case Summary](#)

### ***Right to Life***

The [United Nations Human Rights Committee](#) observed in its General Comment Number 6 that,

the right to life has been too often narrowly interpreted. The expression ‘inherent right to life’ cannot properly be understood in a restrictive manner and the protection of this right requires that States adopt positive measures. In this connection, the Committee considers it desirable for States Parties to take all possible measures to reduce infant mortality and increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.

Significant advances toward the full realization of the economic, social and cultural rights dimensions of the right to life continue to be made. One initial resource on the right is:

#### [Olga Tellis v. Bombay Municipal Corporation](#)

An additional resource on the right is the Front Line Defender’s online manual entry on the right to life.

The following case studies and summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to life:

- [Shantistar Builders v. Narayan Khimali Tatome and Others Case Summary](#)
- [Water Privateers Forced Out of Bolivia](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)
- [Pashim Banga Khet Mazdoor Samity v. State of West Bengal Case Summary](#)

- [\*Hoffman v. South African Airways Case Summary\*](#)
- [\*African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary\*](#)

Two important quantifying and qualifying tools that are useful when monitoring program service delivery on the right to life are the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#) and the [Millennium Development Goals](#).

### **Right to Life Dossier**

Article 6(6) of the [International Covenant on Civil and Political Rights](#)

Article (4)(1) of the [American Convention on Human Rights](#)

Article 2(a) of the [Cairo Declaration on Human Rights in Islam](#)

Article 6 of the [Convention on the Rights of the Child](#)

Article 2 of the [Convention on the Prevention and Punishment of the Crime of Genocide](#)

Article 2 of the [International Convention on the Suppression and Punishment of the Crime of Apartheid](#)

Article 3 of the [Universal Declaration of Human Rights](#)

### ***Right to Own Land and Other Property***

The right to own land and other property includes the right of everyone to private ownership and the right to the use and enjoyment of land and other property. Part and parcel of this is the right to exclude other from such use and enjoyment or privately owned land and other property.

In recent years, the relationship between this constituent right to exclude others from property use and enjoyment and the full promotion and protection of other ESC rights has been particularly tenuous with regards to intellectual property rights. This tension is most apparent to human rights defenders working to protect the rights of People Living with HIV/AIDS (PLWHA), including their rights to the highest attainable standard of health and their rights to benefit from scientific advancement. Under the World Trade Organization's Agreement on the Trade-Related Aspects of Intellectual Property Rights (the "TRIPS Agreement"), for example, medications essential to the management and treatment of HIV/AIDS were accorded strengthened patent protection that, in practical terms, made it impossible for most PLWHAs worldwide to have access to the drugs. This was cured, in part, by the Declaration on the TRIPS Agreement & Public Health (the "Doha Declaration") in which the WTO Ministers agreed to exempt least-developed countries from the stringent measures demanded by TRIP until 2016.

The General Recommendation 21 of Committee on the Elimination of Discrimination against Women further provides that the right to own, manage, enjoy and dispose of property is central to a woman's right to enjoy financial independence, and in many countries will be critical to her ability to earn a livelihood and to provide adequate housing

and nutrition for herself and for her family.

One important quantifying and qualifying tool that is useful when monitoring program service delivery on the right to own land and other property is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#).

### **Right to Own Land and Other Property Dossier**

Article (1) of the European Convention Protecting Human Rights and Fundamental Freedoms Protocol One

Article 13, 14 of the [Convention Relating to the Status of Refugees](#)

Article 13 of the [Convention Relating to the Status of Stateless Persons](#)

Article II(d) of the [International Convention on the Suppression and Punishment of the Crime of Apartheid](#)

Article 21 of the [American Convention on Human Rights](#)

Article 13(3), 14 of the [African Charter on Human and Peoples' Rights](#)

Article 5(d) of the [International Convention on the Elimination of All Forms of Racial Discrimination](#)

Article 16(1)(h) of the [Convention on the Elimination of All Forms of Discrimination Against Women](#)

Article 15 of the [International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#)

[Convention Establishing World Intellectual Property Organization](#)

[Paris Convention for the Protection of Industrial Property](#)

Article 17 of the [Universal Declaration of Human Rights](#)

Article 5 of the [Cairo Declaration on Human Rights in Islam](#)

Article 6(2) of the [Declaration on Social Progress and Development](#)

Article 13 of the [Declaration on the Rights of Disabled Persons](#)

Article 5(2)(d) of the [Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live](#)

### **Key Right to Own Land and Other Property Developments and Sample Best Practices**

Significant advances toward the full realization of the right to own land and other property continue to be made. One initial resource on the right is [Module 18 of Circle of Rights on "Land Rights"](#).

The following case summaries illustrate how human rights defenders have used the ESC rights approach to promote and

protect the right to own land and other property:

- [\*Sandra Lovelace v. Canada\*](#)
- [\*Chassagnou and Others v. France Case Summary\*](#)
- [\*African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary\*](#)

### ***Right of Self-determination***

The right to self determination is firmly entrenched in the International Bill of Rights as well as most major international human rights instruments. For example article 1 of the [International Covenant on Economic, Social and Cultural Rights](#) provides:

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

As clarified by the [United Nations Human Rights Committee](#) in its General Comment Number 10,

paragraph 2 [of the [International Covenant on Civil and Political Rights](#)] affirms a particular economic context of the right of self-determination. ... This right entails corresponding duties for all states and the international community. States should indicate any factors or difficulties which prevent the free disposal of their natural wealth and resources contrary to the provisions of this paragraph and to what extent that affects the enjoyment of other rights set forth in the Covenant.

Significant advances toward the full realization of the right of self-determination continue to be made. Some initial resources on the right are:

- [Reports and Statements Made By the United Nations Special Rapporteur on the Use of Mercenaries as a Means of Impeding the Exercise of the Right of Peoples to Self-Determination](#)
- [\*African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary\*](#)

One important quantifying and qualifying tool that is useful when monitoring program service delivery on the right of self-determination is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#).

### **Self-determination Rights Dossier**

Article 1 of the [International Covenant on Economic, Social and Cultural Rights](#)

Articles (1)(1), (1)(3) of the [International Covenant on Civil and Political Rights](#)

Articles 1-2, 55 of the [Charter of the United Nations](#)

Article 20 of the [African Charter on Human and Peoples' Rights](#)

Article 11(b) of the [Cairo Declaration on Human Rights in Islam](#)

[Declaration on the Granting of Independence to Colonial Countries and Peoples](#)

Declaration on Principles of International Law Concerning Friendly Relations and Cooperation in Accordance with the Charter of the United Nations

Declaration Establishing New International Economic Order

[Charter of Economic Rights and Duties of States](#)

Article 3(a) of [Declaration on Social Progress and Development](#)

Article 3 of the [Declaration on Race and Racial Prejudice](#)

### **General Comments Relating to the Right of Self-Determination**

[U.N. Human Rights Committee General Comment Number 12](#)

[U.N. Human Rights Committee General Comment Number 23](#)

[U.N. Committee on the Elimination of all Forms of Racial Discrimination General Recommendation XXI](#)

### ***Right to Participation***

The right to participation is implicit in the [International Covenant on Economic, Social and Cultural Rights](#) in Articles 8 (on freedom of association), 13 (on education), and 15 (on cultural life) and explicit in the [International Covenant on Civil and Political Rights](#). The right to participation is spelt out in the 1986 UN [Declaration on the Right to Development](#) and in the 1993 Vienna Declaration and Programme of Action. Individuals, groups and communities hold a human right to be involved in decision-making, planning and implementation processes affecting their ESC rights and are entitled to information that enables the decision-making process to be meaningful. It follows that states and non-state actors, particularly development agencies have a duty to enable people affected by a development activity to participate in ways capable of transforming their social, political and economic conditions.

The following case summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to participation:

- [Water Privateers Forced Out of Bolivia](#)
- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)
- [Protecting the Rural Poor in Nepal](#)

One important quantifying and qualifying tool for monitoring program service delivery on the right to participation is the [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#).

### *Right to Development*

A primary, guiding text on the right to development is the [Declaration on the Right to Development](#) which provides in Article 1, Paragraph 1 that the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

As clarified by the [United Nations Independent Expert on the Right to Development](#), the right to development is:

- the right to a particular process of development that allows the realization of economic, social and cultural rights, as well as civil and political rights, and all fundamental freedoms, by expanding the capabilities and choices of the individual. Any increase of human development, carried out in a participatory, accountable, transparent and non-discriminatory manner that improves equity and justice by reducing poverty, will be consistent with the human rights approach to development; and
- a ‘vector’ of different elements, including the right to food, the right to healthy, the right to education, the right to housing and other economic, social and cultural rights, as well as all the civil and political rights, together with rates of growth of representative resources such as per capita consumption, output and enjoyment. The requirement for improving the right to development is that at least some of the rights can be increasingly realized while no other deteriorates in realization or is violated, regardless of whether they are civil or political rights or any of the economic, social and cultural rights, and there is sustained growth of overall resources.

The international community has a duty to cooperate to enable the States parties to fulfil its obligations under the right to development. Otherwise implementing a plan of development with fundamental institutional changes within individual nation-states may not be possible. Such international cooperation cannot be considered only in terms of transfer of resources. On their own part, developing countries must enact legislation that empowers beneficiaries at the grassroots level, allocates investment and restructures production to promote equity and sustainable growth with resources (i.e., gross domestic product, output and employment, legal, technical and institutional resources) available.

### **Minimum Core Content**

States parties to the [International Covenant on Economic, Social and Cultural Rights](#) bear non-derogable core obligations with respect to the right to development. For example, States are obligated to ensure the right to a process that expands the capabilities or freedom of individuals to improve their well-being and to realize what they value. As such, the United Nations General Assembly noted in paragraph 9 of its Resolution 56/150 that the realization of the rights to food, health and education may be important development entry points to the realization of the right to development.

Some important quantifying and qualifying tools that are useful when monitoring program service delivery on the right to development are:

- [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#)
- [Human Development Report](#)
- [Millennium Development Goals](#)

## **Right to Development Dossier**

[Declaration on Social Progress and Development](#)

[Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for the Benefit of Mankind](#)

[Declaration on the Right to Development](#)

Draft Declaration of Principles on Human Rights and the Environment

### **Key Right to Development Cases and Advances**

Significant advances toward the full realization of the right to own land and other property continue to be made. Some initial resources on the right are:

- [Human Rights and Human Development](#)
- [Development Education Materials](#)
- [Statements and Reports by the Independent Expert on the Right to Development](#)
- [“Understanding the Human Rights Approach and the Value Added to Sustainable Human Development” \(Video Lecture\)](#)
- [“The Human Rights Framework: Its Relevance for Development” \(Video Lecture\)](#)
- [“Human Rights Issues - Debt, Globalization, Structural Adjustment: \(Video Lecture\)](#)
- [Open-Ended Working Group on the Right to Development](#)

The following case studies and summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to development:

- [Shantistar Builders v. Narayan Khimali Tatome and Others Case Summary](#)
- [Water Privateers Forced Out of Bolivia](#)
- [Protecting the Rural Poor in Nepal](#)
- [African Commission on Human and Peoples’ Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary](#)

## ***Right to Freedom of Association***

The primary guiding texts on the right to freedom of association are the [International Covenant on Economic, Social and Cultural Rights](#) (article 8 on the right to form and join a trade union) and the [International Covenant on Civil and Political Rights](#) (article 22). The following case studies and summaries illustrate how human rights defenders have used the ESC rights approach to promote and protect the right to freedom of association:

- [Water Privateers Forced Out of Bolivia](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)
- [Chassagnou and Others v. France Case Summary](#)

An additional resource on the right is the Front Line Defender's online manual entry on the right to freedom of association.

The International Labour Organisation's [Committee on Freedom of Association](#) receives and reviews complaints alleging violations of the right to freedom of association.

Some important quantifying and qualifying tools that are useful when monitoring program service delivery on the right to freedom of association are:

- [Revised Guidelines Regarding the Form and Contents of Report to be submitted by States Parties under Articles 16 and 17 of the International Covenant on Economic, Social and Cultural Rights](#)
- [millennium development goals](#)

### **Freedom of Association Dossier**

Article 8(1)(a) of the [International Covenant on Economic, Social and Cultural Rights](#)

Article 22 of the [International Covenant on Civil and Political Rights](#)

Article 11(1) of the [European Convention for the Protection of Human Rights and Fundamental Freedoms Protocol](#)

Article 15 of the [Convention on the Rights of the Child](#)

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Article 16 of the [American Convention on Human Rights](#)

Article 10(1-2) of the [African Charter on Human and Peoples' Rights](#)

[Right to Organise and Collective Bargaining Convention](#)

[Workers' Representatives Convention](#)

[Rural Workers' Organisations Convention](#)

[Labour Relations \(Public Service\) Convention](#)

Article 2(c) of the [International Convention on the Suppression and Punishment of the Crime of Apartheid](#)

Article 5(d)(ix) of the [International Convention on the Elimination of All Forms of Racial Discrimination](#)

Article 15 of the [Convention Relating to the Status of Refugees](#)

15 of the [Convention Relating to the Status of Stateless Persons](#)

20(1), 23(4), 20(1-2) of the [Universal Declaration of Human Rights](#)

[Declaration Concerning the Aims and Purposes of the International Labour Organisation \(“Declaration of Philadelphia”\)](#)

### **Selected Governing Standards**

It is critically important that human rights defenders recognize that standards governing ESC rights hold differing weights in that some are binding, while others are merely persuasive (see [legal force of human rights and humanitarian law instruments](#)).

#### **United Nations Treaties**

[International Covenant on Economic, Social and Cultural Rights](#)

[Draft Optional Protocol to the International Covenant on Economic, Social and Cultural Rights](#)

[Charter of the United Nations](#)

[Convention on the Elimination of All Forms of Discrimination Against Women](#)

[Convention on the Prevention and Punishment of the Crime of Genocide](#)

[Convention on the Rights of the Child](#)

[Convention Relating to the Status of Stateless Persons](#)

[International Convention on the Elimination of All Forms of Racial Discrimination](#)

[International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#)

[International Convention on the Suppression and Punishment of the Crime of Apartheid](#)

[International Covenant on Civil and Political Rights](#)

[Optional Protocol to the International Covenant on Civil and Political Rights](#)

[Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal](#)

[Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)

[Basic Principles for the Treatment of Prisoners](#)

[International Convention Against Apartheid in Sports](#)

[Convention on Biological Diversity](#)

[Convention to Combat Desertification in Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa](#)

[Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#)

[Convention on the International Right of Correction](#)

[Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#)

[Convention on the Nationality of Married Women](#)

[Convention on the Reduction of Statelessness](#)

[Convention Relating to the Status of Refugees](#)

[Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others](#)

[Food Aid Convention](#)

[Universal Copyright Convention as Revised at Paris 24 July 1971](#)

[Framework Convention on Climate Change](#)

[Vienna Convention of the Protection of the Ozone Layer](#)

[Protocol Relating to the Status of Refugees](#)

[The Montreal Protocol on Substances that Deplete the Ozone Layer](#)

## **Other International Treaties**

[Geneva Convention relative to the Treatment of Prisoners of War](#)

[Geneva Convention relative to the Treatment of Civilian Persons in Time of War](#)

[Charter of Economic Rights and Duties of States](#)

## **Other United Nations Instruments**

[Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief](#)

[Declaration on the Granting of Independence to Colonial Countries and Peoples](#)

[Declaration on Principles of International Law Concerning Friendly Relations and Cooperation in Accordance with the Charter of the United Nations](#)

[Declaration on the Right to Development](#)

[Declaration on the Rights of Disabled Persons](#)

[Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities](#)

[Standard Minimum Rules for the Treatment of Prisoners](#)

[Universal Declaration of Human Rights](#)

[Declaration on the Elimination of All Forms of Racial Discrimination](#)

[Declaration on Fundamental Principles Concerning the Contributions of the Mass Media to Strengthening Peace and International Understanding to the Promotion of Human Rights and to Countering Racism, \*Apartheid\* and Incitement to War](#)

[Declaration on the Human Rights of Individuals Who are not Nationals of the Country in which They Live](#)

[Declaration of Cultural Rights](#)

[Declaration of the Principles of International Cultural Co-operation](#)

[Declaration on the Protection of Women and Children in Emergency and Armed Conflict](#)

[Declaration on the Promotion Among Youth of the Ideals of Peace, Mutual Respect and Understanding Between Peoples](#)

[Declaration on the Rights of Mentally Retarded Persons](#)

[1978 Declaration of Alma-Ata on Primary Health Care](#)

[Declaration on Race and Racial Prejudice](#)

[Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally](#)

## **Instruments Adopted by United Nations Agencies**

[Abolition of Forced Labour Convention](#)

[Convention Concerning the Application of the Principles of the Right to Organize and Bargain Collectively](#)

[Convention Concerning Forced or Compulsory Labour](#)

[Convention Against Discrimination in Education](#)

[Convention Concerning Employment Promotion and Protection Against Unemployment](#)

[Convention Concerning Indigenous and Tribal Peoples in Independent Countries](#)

[Convention Concerning the Promotion of Collective Bargaining](#)

[Convention Concerning Protection and Facilities to be Afforded to Workers' Representatives in the Undertaking](#)

[Convention Concerning Protection of the Right to Organize and Procedures for Determining Conditions of Employment in the Public Service](#)

[Convention Concerning Occupational Health Services](#)

[Discrimination \(Employment and Occupation\) Convention](#)

[Employment Policy Convention](#)

[Employment Promotion and Protection and Unemployment Convention](#)

[Equal Remuneration Convention](#)

[Employment Service Convention, 1948](#)

[Convention Concerning Freedom of Association and Protection of the Right to Organize](#)

[Forty-Hour Week Convention, 1935](#)

[Forced Labour Convention](#)

[Holidays with Pay Convention, 1936](#)

[Holidays  
with Pay Convention  
\(Revised\), 1970](#)

[Invalidity, Old-Age and Survivors' Benefits Convention  
Labour Inspection Convention, 1947](#)

[Labour Relations \(Public Service\) Convention](#)

[Minimum Age Convention, 1973](#)

[Migrant Workers \(Supplementary Provisions\) Convention  
Night Work Convention, 1990](#)

[Night Work of Young Persons \(Industry\) Convention \(Revised\)](#)

[Paid Educational Leave Convention, 1974  
Prevention of Major Industrial Accidents Convention, 1993](#)

[Part-Time Work Convention, 1994](#)

[Protection of Wages Convention, 1949](#)

[Right to Organize and Collective Bargaining Convention, 1949  
Rural Workers' Organizations Convention](#)

[Slavery Convention](#)

[Protocol Amending the  
Slavery Convention](#)

[Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and  
Practices Similar to Slavery](#)

[Social Policy \(Non-Metropolitan Territories\) Convention, 1947](#)

[Social Policy \(Basic Aims and Standards\) Convention, 1962](#)

[Social Security \(Minimum Standards\) Convention](#)

[Termination of Employment Convention, 1982](#)

[Worst Forms of Child Labour Convention](#)

[Workers' Representatives Convention, 1971](#)

[Weekly Rest \(Commerce and Offices\) Convention, 1957](#)

[Weekly Rest \(Industry\) Convention, 1921](#)

[Employment Injury Benefits Convention, 1964](#)

[Vocational Rehabilitation and Employment \(Disabled Persons Convention](#)

[Paris Convention for the Protection of Industrial Property](#)

[Rural Workers' Organisations Convention](#)

[Labour Relations \(Public Service\) Convention](#)

[Convention Establishing World Intellectual Property Organization](#)

[Protocol Instituting a Conciliation and Good Offices Commission to be Responsible for Seeking a Settlement of Any Dispute which may Arise Between States Parties to the Convention against Discrimination in Education](#)

[Protocol of 1995 to the Labor Inspection Convention, 1947](#)

[Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#)

[Recommendation Concerning Older Workers](#)

[Recommendation Concerning Education for International Understanding, Co-operation and Peace and Education Relating to Human Rights and Fundamental Freedoms](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 1: Reporting by States Parties](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 2: International Technical Assistance Measures](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 3: The Nature of States Parties Obligations](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 4: The Right to Adequate Housing](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 5: Persons with Disabilities](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 6: the Economic, Social, and Cultural Rights of Older Persons](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 7: Forced Evictions](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 8: The Relationship Between Economic Sanctions and Respect for Economic, Social and Cultural](#)

[Rights](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 9: The Domestic Application of the Covenant](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 10: The Role of National Human Rights Institutions in the Protection of Economic, Social and Cultural Rights](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 11: Plans of Action for Primary Education](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 12: The Right to Adequate Food](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 13: The Right to Education](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 14: The Right to the Highest Attainable Standard of Health](#)

[United Nations Committee on Economic, Social and Cultural Rights General Comment Number 15: The Right to Water](#)

[United Nations Committee on Economic, Social and Cultural Rights Statement to the 3<sup>rd</sup> Ministerial Conference of the World Trade Organization](#)

[United Nations Committee on Economic, Social and Cultural Rights Statement on Poverty](#)

[United Nations Committee on Economic, Social and Cultural Rights Statement on Human Rights and Intellectual Property](#)

[Halving Extreme Poverty: An Action Strategy for the United Nations](#)

[United Nations High Commission for Human Rights Fact Sheet Number 16: Committee on Economic, Social and Cultural Rights](#)

[United Nations High Commission for Human Rights Fact Sheet Number 21: Human Right to Adequate Housing](#)

[United Nations High Commission for Human Rights Fact Sheet Number 25: Forced Evictions and Human Rights](#)

[Habitat Agenda for the Second United Nations Conference on Human Settlements](#)

[Comprehensive and Integrated WTO Plan of Action for the Least Developed Countries \(WT/MIN \(96\)/14\)](#)

[Declaration Concerning the Aims and Purposes of the International Labour Organisation \(“Declaration of Philadelphia”\)](#)

[United Nations Human Rights Committee General Comment Number 10](#)

[United Nations Human Rights Committee General Comment Number 28  
Agreement on the Trade-Related Aspects of Intellectual Property Rights](#)

[Declaration on the TRIPS Agreement & Public Health](#)

[Committee Against Torture Concluding Observations \(CAT/C/XXVII/Concl.5\)](#)

[1978 Declaration of Alma-Ata on Primary Health Care](#)

[Rome Declaration on World Food Security](#)

[Declaration and Programme of Action of the World Conference against Racism, Racial  
Discrimination, Xenophobia and Related Intolerance](#)

[Declaration on Social Progress and Development](#)

[Declaration on the Use of Scientific and Technological Progress in the Interests of Peace and for  
the Benefit of Mankind](#)

[Declaration on Territorial Asylum](#)

[Fourth World Conference on Women: Beijing Declaration](#)

[Draft Declaration on the Rights of Indigenous Peoples](#)

[Rio Declaration on Environment and Development](#)

[Declaration on Science and the Use of Scientific Knowledge for the 21<sup>st</sup> Century](#)

[Draft Universal Declaration on the Human Genome and Human Rights](#)

[Declaration on the Right to Development](#)

[Declaration on the Right to Food](#)

[International Conference on Nutrition World Declaration on Nutrition](#)

[Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to  
Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#)

[World Food Conference Declaration](#)

[Declaration of Basic Principles of Justice for Victims of Crimes and Abuse of Power](#)

[Declaration on Cities and Other Human Settlements in the New Millennium](#)  
[Istanbul Declaration on Human Settlements](#)

[Vancouver Declaration on Human Settlements](#)

[Universal Declaration on Eradication on Hunger and Malnutrition](#)

[General Assembly Resolution 1803 \(XVII\) of 14 December 1962, “Permanent Sovereignty over Natural Resources”](#)

[Sub-Commission Resolution 2000/7 on Intellectual Property Rights and Human Rights](#)

[Commission Resolution 2001/34 on Women’s Equal Ownership of, Access to and Control Over Land and the Equal Rights to Own Property and to Adequate Housing](#)

[U.N. General Assembly Resolution A/RES/S-27/2, “A World Fit for Children](#)

[General Recommendation Number 18 of Committee on the Elimination of All Forms of Discrimination Against Women](#)

[ILO Recommendation Number 115 Concerning Worker’s Housing](#)

[Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)

[Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care](#)

[Draft Code of Conduct on the Right to Adequate Food](#)

[United Nations Rules for the Protection of Juveniles Deprived of their Liberty](#)

[Guidelines for the Regulation of Computerized Personal Data Files](#)

[HIV/AIDS and Human Rights: International Guidelines](#)

[Basic Principles and Guidelines on the Right to Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law](#)

[HIV/AIDS and Human Rights: International Guidelines](#)

[Comprehensive Human Rights Guidelines on Development-Based Displacements](#)

[Global Strategy for Shelter to the Year 2000](#)

[International Plan of Action on Ageing](#)

[Agenda 21](#)

[Plan of Action to Strengthen the Implementation of the International Covenant on Economic, Social and Cultural Rights](#)

[Copenhagen Declaration and Programme of Action- The World Summit for Social Development](#)

Programme of Action for the Establishment of a New International Economic Order

[Vienna Declaration and Programme of Action](#)

[World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance Declaration and Programme of Action](#)

[Proclamation on Aging](#)

**Regional Instruments**

*Africa*

[African Charter on Human and Peoples' Rights](#)

[African Charter on the Rights and Welfare of the Child](#)

[Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa](#)

[Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights](#)

*The Americas*

[Charter of the Organization of American States](#)

[American Declaration on the Rights and Duties of Man](#)

[American Convention on Human Rights](#)

[Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social and Cultural Rights; "Protocol of San Salvador"](#)

*Asia*

[Declaration on the Basic Duties of Association of Southeast Asian Nations \(ASEAN\) Peoples' and Governments](#)

*Europe*

[Conference on Security and Cooperation in Europe](#)

[European Convention on Human Rights](#)

[European Convention on Human Rights, Protocol Number 7](#)

[European Social Charter](#)

## Miscellaneous

[Limburg Principles on the Implementation of the International Covenant on Economic, Social and Cultural Rights](#)

[Maastricht Guidelines on Violations of Economic, Social and Cultural Rights](#)

[Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy](#)

[Declaration of Tlahuitoltepec on the Fundamental Rights of Indigenous Nations, Nationalities and Peoples of Indo-Latin America](#)

[Cairo Declaration on Human Rights in Islam](#)

[Codex Alimentarius Commission of the Code of Ethics for International Trade in Food](#)

## ESC Rights and Poverty

### Poverty is a Violation of Human Rights

The [United Nations Committee on Economic, Social and Cultural Rights](#) defines poverty as a human condition characterized by sustained or chronic deprivation of the resources, capabilities, choices, security and power necessary for the enjoyment of an adequate standard of living and other civil, cultural, economic, political and social rights. Poverty has been and remains a constructed social and economic reality. The poor are not poor simply because they are less human or because they are physiologically or mentally inferior to others whose conditions are better off. On the contrary, their poverty is often a direct or indirect consequence of society's failure to establish equity and fairness as the basis of its social and economic relations.

Conventionally, extreme poverty is measured against the World Bank standard of living off of US\$1 per day or less. Based on this parameter, in 1998, over 800 million people were living in extreme poverty in South Asia and Sub-Saharan Africa alone (Para. 8, *Human Rights and Extreme Poverty, Report submitted by Ms. A.-M. Lizin, Independent Expert, pursuant to Commission Resolution 2000/12, E/CN.4/2001/54*. 16 Feb. 2001). Among the most blighted subgroups are extremely poor children and women. Worldwide, nearly 8 million children die from diseases caused by dirty water or poisoned air each year, 150 million children under five years of age are gravely malnourished, with another 260 million suffering from maladies such as anemia that are associated with vitamin and mineral deficiencies. In addition, there are 250 million child laborers worldwide. Women comprise 70 percent of those living in absolute poverty. Over one billion people are estimated to lack access to a basic water supply, and roughly 2.4 billion people live without adequate sanitation. 790 million people worldwide suffer from undernourishment. According to the [World Bank](#), globally, 9 in 100 boys and 14 in 100 girls of school age do not attend to primary school.

Poverty is indisputably the most potent violation of all human rights, and constitutes a threat to the survival of the greatest numbers of the human population. As poverty has intensified in both rich and poor nations alike, the view of

poverty as a human rights and social justice issue has gained increased recognition. The United Nations General Assembly (UNGA) has resolved that extreme poverty and exclusion from society constituted a violation of human dignity (General Assembly Resolution 53/146 on Human Rights and Extreme Poverty adopted December 18, 1992).

The historical emphasis on C&P rights over ESC rights helped to reinforce a view of poverty as an extra-human right category consigned to be addressed by market forces, the development process or fate contrary to the proclamation by the Universal Declaration of Human Rights (UDHR) that the enjoyment of freedom of speech and belief, freedom from fear and *want* is the highest aspiration of all people.

A rights-based approach to poverty views the poor as holding inalienable, fundamental rights that must be respected, protected and fulfilled. Noting this, the U.N. General Assembly has recognized that surmounting extreme poverty constitutes an essential means to the full enjoyment of political, civil, economic, social and cultural rights.

National strategies for poverty reduction suggested by the [United Nations Independent Expert on Human Rights and Extreme Poverty](#) include:

- enacting legislation on a minimum guaranteed income
- providing microcredit
- maintaining active local authorities
- increasing social investment funds
- building linkages of social assistance with employment by means of reintegration
- founding an environment that encourages education (especially for girls)
- legal assistance
- monitoring of prisons
- participation of the poorest people in information programs
- police training
- anti-corruption legislation
- specific measures targeted at disadvantaged groups like programs to cover the costs of primary care, hygiene and specific diseases associated with extreme poverty
- [Draft Guidelines on Human Rights Approaches to Poverty Reduction Strategies](#)
- [Poverty Matrix](#)
- [Poverty Monitoring Database](#)
- [Statements and Reports of the Independent Expert on Human Rights and Extreme Poverty](#)
- [“Human Rights and Governance” and “Human Rights and Poverty” \(Video Lectures\)](#)
- [Poverty Mapping: Global GIS Database on Poverty and Food Security](#)
- [Halving Extreme Poverty: An Action Strategy for the United Nations](#)

Some initial resources available for ESC rights defenders that are relevant to poverty eradication are:

- [Shantistar Builders v. Narayan Khimali Tatome and Others Case Summary](#)
- [Water Privateers Forced Out of Bolivia](#)
- [Living Wage Movement in USA](#)

## A Human Rights Approach to Development

There is a growing convergence between human rights and development discourses and practice. This trend derives from increasing concern that economic development has not achieved its promise to elevate people from poverty. Rather, that market driven development has led to rising inequalities within and between nations with an estimated 1.2 billion people living under conditions of extreme poverty. A human rights approach to development entails a recognition that human beings possess certain inherent dignity which must be assured and maintained as the overriding goal of every development activity. International human rights law is the only agreed international framework that offers a coherent body of principles and practical meaning for development. This framework provides the tools to better analyse poverty through a focus on the status of each specific right in a given country, to draft appropriate strategies for improving the status of the rights and set clear benchmarks for their realization. Human rights can also help transform the economic, social and political power relationships and structures at the local, national, and international levels. A human rights approach to development requires:

- a recognition that people are valuable in and of themselves, not simply for their potential as economic agents;
- a recognition that development is valuable only because it can serve to promote the enjoyment of greater freedoms and enable people to live dignified lives;
- a mental and process shift on the part of development actors/institutions from that which seeks to “save the world” to that which seeks to “change the world” so that those who are worse off are enabled to take effective control of development processes that concern them; and
- that development practitioners localize their thinking, and subordinate their preferences to the priorities that may be established by the poor themselves.

International development agencies have almost universally focused their mission statements on poverty reduction. The evolution of the concept of poverty reduction strategy papers that commit governments in collaboration with civil society to formulate plans to reduce poverty has provided human rights defenders with opportunities to integrate human rights in development goals. The Office of the High Commissioner for Human Rights has produced a set of guidelines on the integration of human rights in poverty reduction strategies. This has been accompanied with pressure on the international financial institutions to consider the relationship between human rights and development (see Sigrun Skogly, *The Human Rights Obligations of the World Bank and the International Monetary Fund.*)

Additional resources on this topic are:

- [\*Human Rights and Human Development, Human Development Report 2002\*](#)
- [Statements and Reports Made by the United Nations Independent Expert on the Right to Development](#)
- [“Presentations on Experiences in Using a Human Rights Approach, Office of the High Commissioner for Human Rights \(OHCHR\) and UNICEF” \(Video Presentations\)](#)
- [Mainstreaming Human Rights into Development](#)

## Beneficiaries of ESC Rights

Article 2(2) of the [International Covenant on Economic, Social and Cultural Rights](#) (ICESCR) provides that ESC rights are to be enjoyed and exercised “without discrimination of any kind as to race, colour, sex, language, religion, political

or other opinion, national or social origin, property, birth or other status.” Certain groups suffer disproportionately when ESC rights are violated. Effective defense of ESC rights therefore requires disaggregating experiences and mainstreaming the following marginalized groups, amongst others, into social justice initiatives:

## Women

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of women are:

- [Module 4 of \*Circle of Rights\* for “The ESC Rights of Women”](#)
- [Convention on the Elimination of All Forms of Discrimination Against Women](#)
- [Commission on the Status of Women](#)
- [Fourth World Conference on Women: Beijing Declaration](#)
- [Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa](#)
- [Special Rapporteur on Violence against Women](#)
- [\*Violence: The Impact of Forced Evictions on Women in Palestine, India and Nigeria\*](#)
- [Declaration on the Protection of Women and Children in Emergency and Armed Conflict](#)
- [General Recommendation Number 18 of Committee on the Elimination of All Forms of Discrimination Against Women](#)
- [Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others](#)
- [Convention on the Nationality of Married Women](#)
- [Convention Against Discrimination in Education](#)
- [Protocol Instituting a Conciliation and Good Offices Commission to be Responsible for Seeking a Settlement of Any Dispute which may Arise Between States Parties to the Convention against Discrimination in Education](#)
- [Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#)
- [Equal Remuneration Convention](#)

The following case summary illustrates how human rights defenders have used the ESC rights approach to promote and protect the rights of women:

- [\*Sandra Lovelace v. Canada\*](#)

## Children

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of children are:

- [Module 5 of \*Circle of Rights\* for “Children and ESC Rights”](#)
- [Convention on the Rights of the Child](#)
- [Worst Forms of Child Labour Convention](#)
- [African Charter on the Rights and Welfare of the Child](#)
- [U.N. General Assembly Resolution A/RES/S-27/2, “A World Fit for Children](#)
- [Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally](#)
- [Declaration on the Protection of Women and Children in Emergency and Armed Conflict](#)
- [Convention Against Discrimination in Education](#)
- [Protocol Instituting a Conciliation and Good Offices Commission to be Responsible for Seeking a Settlement of Any Dispute which may Arise Between States Parties to the Convention against Discrimination in Education](#)
- [Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages](#)
- [Minimum Age Convention, 1973](#)
- [Night Work of Young Persons \(Industry\) Convention \(Revised\)](#)
- [Declaration on the Promotion Among Youth of the Ideals of Peace, Mutual Respect and Understanding Between Peoples](#)
- [Declaration on the Rights of the Child](#)
- [United Nations Rules for the Protection of Juveniles Deprived of their Liberty](#)
- [United Nations Committee on Economic, Social and Cultural Rights General Comment Number 11: Plans of Action for Primary Education](#)

## **Older Persons**

When older persons are the target population of ESC rights projects, human rights defenders should pay close attention to their particular needs for: (1) adequate retirement pensions that allow them to meet food, clothing, shelter, and healthcare needs; (2) lifelong appropriate educational and training programs that take due account of socioeconomic and technological changes and culture; and (3) safe and non-exploitative environments that are free from physical and mental abuse.

The following case summary illustrates how human rights defenders have used the ESC rights approach to promote and protect the rights of older persons:

- [Amilcar Menéndez, Juan Manuel Caride y otros Case Summary](#)

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of older person are:

- [Recommendation Concerning Older Workers](#)
- [Proclamation on Aging](#)
- [U.N. Committee on Economic, Social and Cultural Rights General Comment Number 6](#)
- [Invalidity, Old-Age and Survivors' Benefits Convention](#)

### **Persons with Disabilities**

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of people who have permanent or transitory functional limitations linked to their physical, intellectual or sensory impairments, medical conditions or mental illnesses are:

- [Declaration on the Rights of Disabled Persons](#)
- [Declaration on the Rights of Mentally Retarded Persons](#)
- [Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care](#)
- [U.N. Committee on Economic, Social and Cultural Rights General Comment Number 5](#)
- [Invalidity, Old-Age and Survivors' Benefits Convention](#)

### **People Living with HIV/AIDS**

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of people living with HIV/AIDS are:

- [UNAIDS](#)
- [UNAIDS Bibliography Database on HIV/AIDS, Human Rights, Ethics and Law](#)
- [\*Policy and Legal Issues Relating to HIV/AIDS and the World of Work\*](#)
- [HIV/AIDS and Human Rights: International Guidelines](#)
- [Agreement on the Trade-Related Aspects of Intellectual Property Rights](#)
- [Declaration on the TRIPS Agreement & Public Health](#)

The following case summary illustrates how human rights defenders have used the ESC rights approach to promote and

protect the rights of People Living with HIV/AIDS (PLWHA):

- [Hoffman v. South African Airways Case Summary](#)

## **Migrant Workers**

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of migrants are:

- [International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families](#)
- [Special Rapporteur on the Human Rights of Migrants](#)
- [Migrant Workers \(Supplementary Provisions\) Convention](#)

## **National, Ethnic, Religious and Linguistic Minorities**

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of minorities are:

- [United Nations Educational, Scientific and Cultural Organisation MOST Clearinghouse on Linguistic Rights](#)
- [Declaration on the Rights of Persons Belonging to National or Ethnic, Religious or Linguistic Minorities](#)
- [Convention Against Discrimination in Education](#)
- [Protocol Instituting a Conciliation and Good Offices Commission to be Responsible for Seeking a Settlement of Any Dispute which may Arise Between States Parties to the Convention against Discrimination in Education](#)
- [Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief](#)
- [Declaration of Cultural Rights](#)
- [Declaration of the Principles of International Cultural Co-operation](#)
- [Declaration on Race and Racial Prejudice](#)
- [Declaration of Tlahuitoltepec on the Fundamental Rights of Indigenous Nations, Nationalities and Peoples of Indo-Latin America](#)
- [International Convention Against Apartheid in Sports](#)
- [International Convention on the Suppression and Punishment of the Crime of Apartheid](#)
- [Convention on the Prevention and Punishment of the Crime of Genocide](#)

## **Indigenous Peoples**

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of indigenous

peoples are:

- [Draft Declaration on the Rights of Indigenous Peoples](#)
- [Declaration of Tlahuitoltepec on the Fundamental Rights of Indigenous Nations, Nationalities and Peoples of Indo-Latin America](#)
- [Working Group on a Draft Declaration on the Rights of Indigenous Peoples](#)
- [Mexico v. Metalclad](#)
- [Module 6 of \*Circle of Rights\* for “ESC Rights of Indigenous Peoples”](#)
- [U.N. Committee on the Elimination of all Forms of Racial Discrimination General Recommendation XXIII](#)
- [Convention Concerning Indigenous and Tribal Peoples in Independent Countries](#)
- [Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property](#)
- [Declaration on the Granting of Independence to Colonial Countries and Peoples](#)
- [Declaration of Cultural Rights](#)
- [Declaration of the Principles of International Cultural Co-operation](#)

The following case summary illustrates how human rights defenders have used the ESC rights approach to promote and protect the rights of indigenous peoples:

- [\*Sandra Lovelace v. Canada\*](#)

### **Forcibly Evicted Persons and Otherwise Internally Displaced Persons**

The following case studies illustrate how human rights defenders have used the ESC rights approach to protect the rights of forced evictees:

- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)
- [The Maroko Community’s Quest for Resettlement, Rehabilitation ad Recompensation](#)

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of forcibly evicted persons and otherwise internally displaced persons are:

- [U.N. Committee on Economic, Social and Cultural Rights General Comment Number 7](#)
- [Habitat International Coalition Tool Kit](#)
- [Centre on Housing Rights and Evictions \(COHRE\)](#)

- [Independent Expert on Internally Displaced Persons](#)
- [Special Rapporteur on the Right to Adequate Housing Reports and Statements](#)
- [Comprehensive Human Rights Guidelines on Development-Based Displacements](#)

## Refugees

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of refugees are:

- [Module 7 of \*Circle of Rights\* for “Refugees and ESC Rights”](#)
- [Protocol Relating to the Status of Refugees](#)

## Prisoners and Detained Persons

Some initial resources available for ESC rights defenders seeking to fully protect and promote the rights of prisoners and detained persons are:

- [Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment](#)
- [Basic Principles for the Treatment of Prisoners](#)
- [Principles of Medical Ethics Relevant to the Role of Health Personnel, Particularly Physicians, in the Protection of Prisoners and Detainees Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#)
- [United Nations Rules for the Protection of Juveniles Deprived of their Liberty](#)
- [Standard Minimum Rules for the Treatment of Prisoners](#)
- [Convention on the International Right to Correction](#)

## Stateless Persons

One initial resource available for ESC rights defenders seeking to fully protect and promote the rights of persons who are not considered to be a national of any state under the operation of its law is:

- [Convention on the Reduction of Statelessness](#)

## Claiming ESC Rights: A People-Centered Approach

ESC rights denials often affect large sections of the population such as the denial of free and compulsory primary education to girl children or the forced eviction of a community from their homes. A people-centered approach proceeds on the recognition that human rights cannot be fully realized unless and until people whose rights are at stake not only become aware of those rights, but are able or enabled to seek, claim and defend them. It further recognizes that the call to action in defense of ESC rights is more likely to be heeded when the individuals or people concerned can strike a chord between the denial of their rights and their depraved existence, and then to establish a link back to the ultimate legally binding duty of the government to respect, protect and fulfil those rights.

## Monitoring

## [Training Manual on Human Rights Monitoring](#)

### [Monitoring from Ripple in Still Water](#)

#### **Human Rights Research and Reporting**

ESC rights may be advanced through human rights research and reporting. Human rights defenders should, for example, conduct comparative research to find measurable and replicable examples of good practices on poverty reduction. Research may also be a powerful tool to promote the rights of women and other marginalized groups through data disaggregation that distill the peculiar experiences and situations of such groups in society.

#### [Manual on Human Rights Reporting](#)

The following case summaries illustrate how human rights defenders have used human rights research and reporting to protect and promote ESC rights:

- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)
- [The Maroko Community's Quest for Resettlement, Rehabilitation and Recompensation Case Study - Maroko](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)

#### **Policy Analysis**

Policy analysis-related strategies to promote and protect ESC rights may include, for example, analyzing economic globalization pressures, structural adjustments and debt servicing and their effect on a country's ability to implement ESC rights. At the national level, it makes good practice for human rights defenders to develop their own competencies to undertake review and analysis of policies and programs which may bear on the enjoyment of ESC rights. This approach is invaluable in any effort to monitor the progressive realization of ESC rights. A good resource for human rights defenders who are interested in using policy analysis is an article on [Policy Work from Ripple in Still Water](#).

The following case summaries illustrate how human rights defenders have used policy analysis to protect and promote ESC rights:

- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)
- [Water Privateers Forced Out of Bolivia](#)

#### **Advocacy**

Advocacy constitutes a major tool in the human rights defender's arsenal for attacking ESC rights violations and promoting the rights individually and collectively. Best practices in this area include:

- advocating for a national debate on the principal dimensions of poverty.

- promoting the establishment of a nationally agreed understanding of poverty (“poverty line”)
- protecting access to basic social services at times of major political or economic changes or crises
- using economic, social and cultural rights instruments as a reference for discussing and addressing poverty issues
  - promoting dialogue with stakeholders about program service delivery outcomes
  - seeking to influence and integrate issues of macroeconomics, trade, rural-urban discrepancies, investment, debt, globalization and governance into the government’s active agenda
  - supporting the development of labor intensive policies that improve employment among the poor
  - advocating for the removal of market and other distortions that discriminate against goods and services produced and maintained by poor people
    - ensuring that the needs of poor people are taken into account in natural resource management strategies
    - supporting the development of adequate land reform and promote programs that ensure better access to land and water resources

The following case summaries illustrate how human rights defenders have used advocacy to protect and promote ESC rights:

- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)
  - [The Maroko Community’s Quest for Resettlement, Rehabilitation and Reconciliation](#)
- [Water Privateers Forced Out of Bolivia](#)
- [Living Wage Movement in USA](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)

### **Community Organizing and Mobilization**

As strategies, community organizing and mobilization are crucial to achieving inclusiveness and ensuring that the energies and resources of groups and local communities are maximally harnessed in the struggle for the realization of ESC rights. Using these methods, human rights defenders may help:

to empower individuals and communities to develop a sense of ownership of the human rights agenda by focusing on issues that impact on their daily lives, and thereby imbuing human rights with a substantive dimension;

embolden socially excluded groups, strengthen control of their own internal affairs, and raise their profile, visibility and social bargaining power;

strengthen the capacity of communities to collect and analyze data relevant to their ESC rights concerns; and facilitate community participation in national and local economic and social development planning and programs.

In the use of community organizing and mobilization, human rights defenders should endeavor to avoid the pitfall of using the apparently neutral and harmonious notion of “community” as a means to ignore possible internal dynamics and differences that may exist among the various groups or sub-groups within the community. It is suggested that close attention be paid to the peculiar needs and concerns of those with the least potential to be heard, and therefore a higher possibility of being marginalized in the affairs of the community. Please see section on [Beneficiaries of ESC Rights](#).

The following case summaries illustrate how human rights defenders have mobilized communities to protect and promote ESC rights:

- [Water Privateers Forced Out of Bolivia](#)
- [Living Wage Movement in USA](#)
- [Community Action Program Committees \(CAPCOMs\) Mobilize Around ESC Rights Issues in Nigeria](#)

For more information, please see the section on “Education and Mobilization” from [Ripple in Still Water: Reflection by Activists on Local- and National-Level Work in Economic, Social and Cultural Rights](#).

### **Legal Assistance and Litigation**

The provision of legal assistance and litigation are among the oldest tools available to human rights defenders to prevent or redress human rights violations. Litigation has also been used to challenge structural impediments to the realization of human rights or to compel duty holders to specifically perform or refrain from performing an act in favor of a rights holder. In the defense of ESC rights, litigation must be seen as more than simply a means of obtaining a court judgement but as a powerful vehicle for educating and mobilizing constituent groups and communities around their issues. Used as a means to define and frame issues, litigation can be an effective rallying point for collective action such that even when the eventual judicial verdict is unfavorable, the consensus and energy already developed can be channeled to other forms of popular expression and activism. For more information on this topic see an article on [Litigation from Ripple in Still Water](#).

The following case summaries further illustrate how human rights defenders have used legal assistance and litigation to protect and promote ESC rights:

- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)
- [The Maroko Community’s Quest for Resettlement, Rehabilitation and Reconciliation](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions](#)

### **Alternative Dispute Resolution (ADR)**

According to the UN Committee on Economic, Social and Cultural Rights, the right to an effective remedy need not be

interpreted always as requiring a judicial remedy as administrative remedies will, in many cases, be adequate. When used effectively ADR can be relatively inexpensive, timely, accessible, and promote dialogue and reconciliation.

## [Module 22 on “Enforcing ESC Rights through Domestic Legal Systems” in Circle of Rights](#)

### **Networking**

#### With Other Activists and Organizations

The following case summaries illustrate how human rights defenders are networking to protect and promote ESC rights:

#### [International Network for Economic, Social and Cultural Rights](#)

- [Water Privateers Forced Out of Bolivia](#)
- [Living Wage Movement in USA](#)
- [Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working](#)

#### [Conditions](#)

Linking up Similarly Situated Individuals, Communities and Peoples

### **Legislative Advocacy**

In specifying States Parties’ obligations, the ICESCR emphasized in Article 2(1) that the rights recognized under the covenant are to be realized by all appropriate means, including particularly the adoption of *legislative measures*. Through education and advocacy, human rights defenders can help sensitize lawmakers to the country’s binding international human rights obligations, and as may be appropriate, emphasize the need for ratification or the translation of international human rights guarantees into locally appropriate legislative and policy instruments. In this respect, initiatives may seek to secure the repeal of laws and regulations that may impede the enjoyment of ESC rights, and to establish new ones that facilitate their enjoyment.

Some initial resources on this topic are:

#### [Legislative Advocacy in \*Ripple in Still Water\*](#)

#### [Handbook for Legislators on HIV/AIDS, Law and Human Rights](#)

The following case studies illustrates how human rights defenders have used legislative analysis techniques to protect and promote ESC rights:

- [Legislating for the Poor](#)
- [Living Wage Movement in USA](#)

### **ESC Rights Training, Internships and Professional Development**

#### [Ripple in Still Water: Reflection by Activists on Local- and National-Level Work in Economic, Social and Cultural Rights](#)

For further information on internships and professional development training opportunities, see [International Human Rights Internship Program](#)'s website, and postings for [internships](#).

### **Applied Budget Analysis**

Budgets can be viewed as important statements of governments' and non-state actors' economic and social priorities. Fittingly, the overriding goal of ESC rights-based applied budget analysis is well targeted social spending on essential social services. In this regard, human rights defenders may consider the following best practices:

- seek engagement in public expenditure reviews and medium term expenditure frameworks, and encourage governments to incorporate the results of social and economic rights-based research into those instruments;
- ensure that poor communities are included in the design and management of basic social services;
- ensure the continuity of basic social services during times of complex humanitarian emergencies;
- audit mechanisms available under development programs to ensure accountability to project stakeholders;
- explore the possibility of social and public budgets;
- design systems that yield disaggregated data on expenditures and outcomes in terms of such areas as rural-urban gaps, gender, ethnicity, and geographical differences;
- access appropriate technology and software to analyze data to assess the impact of policy and program interventions affecting the poor and other marginalized groups;
- improve distributional analysis of poverty programs, and build the capacity to translate data results into policies adequate to advance ESC rights concerns;
- assist in building national capacities for economic and debt management; and
- undertake participatory public expenditure reviews to determine the impact of public investments on the asset base of poor people.

A further resource on ESC rights-based applied budget analysis is [Health Indicators and Budget Analysis](#).

The following case summaries illustrate how human rights defenders have used human rights research and reporting to protect and promote ESC rights:

- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)
- [Budget Analysis: DISHA's Experience from Ripple n Still Water](#)
- [Living Wage Movement in USA](#)

## Micro-credit Initiatives

According to the United Nations Independent Expert on Extreme Poverty, the penultimate priority for microcredit must be to reduce dependence on usury and to widen access to credit at viable commercial rates. Ideally, and consistent with the right to participation concerns, borrowers should also be actively involved in the management of such lending institutions.

The following case study illustrates how human rights defenders have used micro-credit initiatives to protect and promote ESC rights:

- [The Maroko Community's Quest for Resettlement, Rehabilitation and Recompensation](#)

## Using International Human Rights Mechanisms and other related United Nations Procedures

An excellent starting point for gathering information on how to use UN system to defend human rights is the [United Nations High Commissioner for Human Rights' Communications/Complaints Procedure](#).

[United Nations Committee on Economic, Social and Cultural Rights](#)

[United Nations Office of the High Commissioner for Human Rights](#)

[United Nations Human Rights Committee](#)

1503 Procedure

[International Labour Organisation](#)

The International Labour Organisation's [Committee on Freedom of Association](#) receives and reviews complaints alleging violations of the right to freedom of association.

Committee on the Elimination of Racial Discrimination

[United Nations Committee Against Torture](#)

[United Nations Centre for Human Settlements](#)

[World Bank Independent Inspection Panel](#)

The following case summary illustrates how one group filed an ESC rights-concerned petition before this panel:

- [Project Stakeholders Oppose World Bank ESC Rights Violations](#)

[African Commission on Human and Peoples' Rights](#)

- [African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and](#)

[Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria Case Summary](#)

American Court of Human Rights

[European Court of Human Rights](#)

The following case summary illustrates how human rights defenders using the ESC rights approach petitioned the European Court of Human Rights:

- [Chassagnou and Others v. France Case Summary](#)

An additional further resource on this topic is [Information for persons wishing to apply to the European Court of Human Rights](#).

[Inter-American Commission on Human Rights](#)

The following case summary illustrates how human rights defenders using the ESC rights approach petitioned the Inter-American Commission on Human Rights:

- [Amilcar Menéndez, Juan Manuel Caride y otros Case Summary](#)

[National Human Rights Commissions](#)

United Nations Conference on Environment and Development

[Working Groups, Independent Experts and Special Rapporteurs](#)

United Nations Economic and Social Council

[United Nations Educational, Scientific and Cultural Organisation](#)

[World Health Organization](#)

World Food Conference

World Assembly on Aging at Vienna

United Nations General Assembly

European Union

African Union

[UNAIDS](#)

United Nations Environment Programme

[United Nations Habitat](#)

[Council of Europe](#)

Conference of the Parties to the Convention on Biological Diversity

[United Nations Food and Agriculture Organization](#)[World Intellectual Property Organization](#)[UNICEF](#)

Committee of Ministers to the Framework Convention for the Protection of National Minorities

Committee of Experts to the European Charter for Region or Minority Languages

European Committee for the Prevention of Torture

European Committee of Social Rights

Committee of Experts on the Applications of Conventions and Recommendations

Commission on the Status of Women

### Case Studies and Summaries

When implemented at their best, ESC rights projects succeed in furthering the cognitive, physical, cultural, emotional and social development of the affected individuals, communities and peoples concerned. A good resource on how to achieve this goal is [General Principles for ESC Rights Activism from \*Ripple in Still Water\*](#). Best practices may also be gleaned from the following case studies and summaries:

#### Project Stakeholders Oppose World Bank ESC Rights Violations

##### Human Rights

**Defender:** [Social and Economic Rights Action Center \(SERAC\)](#), a Nigerian-based non-governmental, non-partisan human rights organization concerned with the promotion and protection of social and economic rights in Nigeria. SERAC seeks to build awareness about economic, social and cultural rights and explores strategies for securing their realization.

**Forum:** [The World Bank independent Inspection Panel](#)

**Rights:** To adequate housing, to dignity of the human person, to a private and family life, to equality and non-discrimination, to development, and to participation.

**Strategies:** Human Rights Research and Reporting, Policy Analysis, Advocacy, Community Mobilization, Legal Assistance, Applied Budget Analysis

##### Marginalized

**Group:** Forcibly Evicted Persons

**Problem:** On July 15, 1996, the Lagos State Government announced plans to forcibly evict residents of 15 major slum communities from their homes and businesses as part of an \$89.1 million World Bank-

funded Lagos Drainage and Sanitation Project (LDSP). A pilot project implemented earlier in two central slum communities forcibly evicted over 2,000 people without notice, compensation or resettlement. The evictions were carried out by LDSP officials, backed by armed police and military personnel, who brutalized the residents as they sought to salvage personal belongings while bulldozers tore down their homes, businesses, health care centers and other structures in the communities.

**Action:** SERAC's investigations revealed that the majority of the targeted communities' residents were unaware of the LDSP and threat of evictions. Despite the World Bank's non-cooperation, SERAC obtained crucial "classified" documents that exposed the likely impact of the LDSP, which when fully implemented would deprive an estimated 1.2 million people of homes, businesses, schools and health centers. SERAC initiated a program to assist communities to protect their rights. In June 1998 it filed a [Request for Inspection](#) before the [World Bank independent Inspection Panel](#) asserting that the LDSP violated the Bank's Operational Directives by failing to provide adequate notice, full consultations, compensation, resettlement and rehabilitation of persons affected by "involuntary resettlement." It alleged further that the project was in violation of a number of the residents' human rights, in particular the right to adequate housing and right to dignity.

Forced eviction constitutes a violation of internationally recognized human rights. The human rights approach provided both the language and a rational framework for raising the consciousness of the affected communities regarding protections to which they are entitled and to which the government and the [World Bank](#) were bound by national, regional and international human rights laws to uphold. These, as well as the Bank's Operational Directives, prohibit the practice of forced eviction except strictly in accordance with due process. That human rights approach provided invaluable leverage in the unequal power relations between the government, the [World Bank](#) and the local communities.

Following an on-site investigation in September 1998, the [World Bank Inspection Panel](#) concluded that it was "not satisfied that the [Bank] management had fully complied with [its] resettlement policy," in so far as it had "failed to provide for resettlement and compensation of some affected people." The Panel "acknowledge[d] the concerns and efforts of SERAC for exhibiting such courage in defending the rights of the affected people," adding that "[SERAC's] presence in the equation has made it possible for the Requesters to develop better dialogue ...". The LDSP has been left abandoned and the majority of residents' homes saved. The project, which was to be replicated in fifteen communities, has been halted pending adequate compensation for and resettlement of those that would have been affected.

[\*Shantistar Builders v. Narayan Khimalal Tatome and Others\*](#)

**Forum:** Supreme Court of India

**Rights:** To an adequate standard of living, to life, to adequate food, to adequate housing, to development

**Action:** The Court in this case held that constitutional right to life guarantees ensure the equality of the "weaker segments of society", and found that meeting basic needs is indispensable to the development of individuals. It declared:

Basic needs of man have traditionally been accepted to be three- food, clothing and shelter. The right to life is guaranteed in any civilized society. That would take within its sweep the right to food, right to clothing, the right to a decent environment and a reasonable accommodation to live in. The difference between the need of an animal and the human being for shelter has to be kept in view. For the animal, it is the bare protection of body; for the human being, it has to be a suitable accommodation that

would allow him to grow in every aspect physical, mental and intellectual. The Constitution aims at ensuring fuller development of every child. That would be possible only if the child is in a proper home ... a reasonable residence is an indispensable necessity for fulfilling the Constitutional goal in the matter of the development of a man and should be taken as included in 'life' . . . .

### **The Maroko Community's Quest for Resettlement, Rehabilitation and Recompensation**

#### **Human Rights**

**Defender:** [Social and Economic Rights Action Center \(SERAC\)](#), a Nigerian-based non-governmental, non-partisan human rights organization concerned with the promotion and protection of social and economic rights in Nigeria. SERAC seeks to build awareness about economic, social and cultural rights and explores strategies for securing their realization.

**Rights:** To adequate housing, healthy environment, adequate standard of living

#### **Marginalized**

**Group:** Forcibly Evicted Persons

**Strategies:** Human rights research and reporting, advocacy, legal assistance and litigation, community mobilization, micro-credit initiatives

**Problem:** In July 1990, the prevailing military government of Lagos State, Nigeria ordered the demolition of Maroko community. The demolition of the entire community was carried out after a seven-day quit notice announced over the radio and led to the forced eviction of an estimated 300,000 people from their homes of several decades. The eviction was implemented by armed security agents who physically assaulted residents bold enough to attempt to salvage their property from the rampaging bulldozers. Twenty women were reported raped by the security agents. The Lagos State government made no prior arrangement to resettle or compensate the evictees before commencing the evictions. Faced with homelessness, the evictees took up residence at Ilasan, Ikota and Epe communities (located between 5 and 10 kilometers away from former Maroko community) which comprised abandoned uncompleted buildings built by the Lagos state government; the buildings were in various stages of dilapidation. Several weeks later, the Lagos state government also moved to evict them from the three communities and only renege following public outcry and condemnation of their actions. Subsequently, the state government officially allocated the buildings to about 2% of the affected landlords (an estimated ten thousand landlords were forcefully evicted) whilst the remaining 98% of the evictees were neither resettled nor compensated.

**Action:** Since its inception in May 1995, SERAC has been actively involved in advocacy activities in collaboration with members of former Maroko community under the organization's Maroko Support Project (MSP) seeking redress for the arbitrary demolition/destruction of the evictees' houses and property. Under MSP, SERAC provides education, free legal and technical support to the evictees to enable them sustain their struggle for resettlement and compensation. Advocacy activities targeting local and international audience are, therefore, frequently undertaken by SERAC in order to ensure that the Maroko issue remains on the government's agenda. In 1999, SERAC built an information center at Ilasan, one of the communities where the evictees are currently resettled. The decision to build the information center was guided by the fact that the evictees had no access to news information and could not participate in relevant discussions or respond to issues regarding their eviction even when reported by the media. The information center also serves as a common meeting and craft center for evictees. In 1998, SERAC conducted a research which sought to determine the nature and impact of human rights violations which occur as a result of forced evictions; research revealed (amongst others) that at least 75% of evicted

families depend on the women's petty trade for sustenance. Responding, SERAC introduced its Micro credit project in 1999 under which soft loans are disbursed to the women evictees to sustain their participation in the struggle for adequate compensation and resettlement for their demolished houses as well as provide economic assistance to the evicted families. Recently, on February 8, 2002 SERAC convened a workshop titled, "*Maroko: Steps to Resettlement and Resolution*" which brought together relevant government officials, town planners, architects and journalists, representatives of Maroko Evictees Committee, human rights activists amongst others. The workshop aimed to explore the many dimensions of socio-economic consequences of Maroko eviction and the continued failure of Lagos state government to resettle and compensate the evictees, as well as analyze and recommend various budgetary policy options to resettle the Maroko evictees.

The human rights framework presented SERAC with the most formidable and objective tool available to alter the social, economic and political power relations that promote and preserve inequality. In addition, SERAC's work is predicated on the provisions stipulated in the [International Covenant on Economic, Social and Cultural Rights](#), [African Charter on Human and Peoples' Rights](#) and other regional and international treaties.

Following SERAC's continuing education, technical support and provision of free legal services to Maroko evictees, the evictees have become notably informed, empowered and sensitized on social and economic rights issues to the extent that they frequently initiate advocacy activities aimed at pressurizing the Lagos state government to resettle and compensate them. SERAC's support activities also led to the establishment of Maroko Evictees Committee which comprises members of former Maroko community involved in the struggle for adequate compensation and resettlement for their destroyed homes and property.

Today, the Lagos state government has officially acknowledged that Maroko community was demolished in error. Consistent advocacy has also ensured that the Maroko issue has remained on Lagos government's agenda. In 2001, the government clearly stated its intention to finally resettle and compensate Maroko evictees. In addition, SERAC is currently working with the different stakeholders; government officials, members of local communities, human rights advocates etc. to develop a legal framework on forced eviction.

[\*Amilcar Menéndez, Juan Manuel Caride y otros \(No. 11.670\)\*](#)

**Forum:** [Inter-American Commission on Human Rights](#)

**Rights:** To an adequate standard of living, health, social security

### **Marginalized**

**Group:** Older Persons

**Action:** Retired persons and non-governmental organizations are challenging a myriad of social and economic rights denials associated with the poor administration of retirement and social security benefits. The petitioners rest their claims on the [American Declaration on the Rights and Duties of Man](#) and the [American Convention on Human Rights](#), alleging ESC rights violations derived from delayed entitlement judgments, postponed social security adjustments and postponed or inadequate enforcement of judgements.

[\*\*Caux Round Table: Principles for Business\*\*](#)

**Water Privateers Forced Out of Bolivia**

## Human Rights

**Defenders:** Cochabamba Federation of Factory Workers in collaboration with the [Canadian Union of Public Employees](#) and the New Zealand Water Pressure Group

**Rights:** The right to water, to an adequate standard of living, to development, to participation, to freedom of opinion and expression, to freedom of association, to life

## Marginalized

**Group:** The poor

**Strategies:** Networking, community mobilizing, advocacy

**Problem:** At least six people died during April 2000 mass protests in Bolivia that began after a multinational consortium signed a 40-year concession to provide water and sewer services for Cochabamba, the country's third largest city. The consortium, led by International Water Limited (IWL) was the single bidder in the sale of the city's water and sewer services, also assuming responsibility for supplying water for irrigation and electrical generation to the Cochabamba Valley. The sale was precipitated by the World Bank's urging that Bolivia prioritize water privatization in Cochabamba, arguing that all water users should pay water bills that reflect the full cost of water treatment and delivery, irrespective of their poverty.

The mass protests stemmed from the exorbitant user fee increases for water and sewer services. In some cases, Cochabamba families were billed at rates equal to 20% of their monthly earnings (the median monthly earnings then were approximately US\$100.)

**Action:** To counter the deleterious effects portended by the water privatization scheme, local groups (including the Cochabamba Federation of Factory Workers) partnered with foreign non-governmental organizations (e.g., the [Canadian Union of Public Employees](#)). In one solidarity action, the New Zealand Water Pressure Group hosed down the local Bolivian consulate office with a bright red fire truck, boldly displaying signs saying, "Bolivia, the world is watching you". The human rights defenders organized a city shut-down, forcing an agreement to reverse the user fee increases, and eventually ensuring that the 40-year concession agreement was never honored.

## Living Wage Movement in USA

## Human Rights

**Defenders:** Various grassroots activists, labor unions, religious leaders and other groups

**Rights:** The right to work and rights at work, to an adequate standard of living

## Marginalized

**Group:** The poor

**Strategies:** Networking, advocacy, applied budget analysis, community mobilization, legislative advocacy

**Action:** More than eighty communities in the United States now have laws requiring government contractors and some other employers that receive tax breaks or subsidies to provide lower-income workers with better pay. In what is popularly termed "The Living Wage

Movement”, public services are being used to raise the standard of living of the working poor through ordinances passed by referendums or legislation that require designated employers to pay wages higher than federal or state minimum wages. Typically, the wage rate is set at the level required to bring a family of four out of poverty, or US\$18,000 per annum according to U.S. Department of Health and Human Services formulations. Important, positive by-products of the increased wages include less turnover for businesses, more company loyalty, better customer service, and strong transferrable lessons for laying the organizational framework for other social justice initiatives (e.g. affordable housing).

## Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working Conditions

### Human Rights

**Defenders:** SITRADYMELSAAC Electrical Union, in collaboration with [Rights Action](#)

**Rights:** To work and rights at work, to freedom of opinion and expression, to freedom of association, to an adequate standard of living, to health, to life

**Strategies:** Legal assistance and litigation, networking, advocacy, alternative dispute resolution, human rights research and reporting

**Problem:** Fernando Lopez Lopez, a skilled mechanic, was killed while working at the San Jose power plant in Puerto Quetzal, Guatemala. His death was the direct cause of his employer’s negligent safety policies. The employer, DYMEL, was a Salvadoran construction subcontractor working for a US firm. Lopez’s co-workers organized a labor union in January 1999, and urged the company to institute policies and procedures adequate to ensure the highest attainable occupational health and safety standards. In response, the workers were fired.

The workers thereafter petitioned the Guatemalan courts and received a judgment on June 8, 1999 that directed DYMEL to re-instate them and to respect their right to organize. The company never complied with the order.

**Action:** The workers launched a ten-month vigil on the steps of Guatemala’s Presidential Palace to draw attention to their cause. They also networked with other members of civil society who spearheaded their own projects. For example, Rights Action organized a speaking tour for one of the union leaders, and launched a letter-writing campaign. After a series of negotiations, on October 8, 2002, seventy-one members of the trade union received financial settlements totaling approximately 85% of their back-pay.

Tragically, however, since the settlement, many of the workers remain unemployed. It appears that they have been “black-listed” by local employers. Two union leaders, for example, have reported that, although they applied for positions at twenty-five separate factories and construction sites and were given preliminary indications that they would be hired, the men were not awarded the jobs when their potential employers ran their information by the Human Resources Department for background checks. Human rights defenders continue to issue appeals for the unemployed union leaders, and are now attempting to source jobs for them outside of the country.

### [Sandra Lovelace v. Canada](#)

**Forum:** United Nations Human Rights Committee

**Rights:** To adequate housing, to family life, to own land and other property

**Marginalized**

**Group:** Women, Indigenous People

**Action:** Using the individual complaints procedure established by the [Optional Protocol to the International Covenant on Civil and Political Rights](#), *Lovelace* successfully challenged gender-based discrimination under Canada's Indian Act that denied women married to non-Indian spouses equal access to, and enjoyment of, reserved lands.

*L.K. v. Netherlands*

**Forum:** Committee on the Elimination of Racial Discrimination

**Rights:** To equality and non-discrimination, to adequate housing

**Marginalized**

**Group:** Ethnic and Linguistic Minorities and the Disabled

**Action:** L.K. (name withheld at his request), a partially disabled, ethnic minority, petitioned the Committee on the Elimination of Racial Discrimination for relief following remarks and threats of racial violence issued against him by local residents in a community in which he was interested in renting a house. Arguing that the street had enough foreigners, the residents vowed to, and were successful at, blocking the applicant's access to the rental property. The Committee found that the remarks and threats constituted incitement to racial discrimination and to acts of violence against persons of another color or ethnic origin, contrary to article 4(a) of the International Convention on the Elimination of All Forms of Racial Discrimination. It found further that the Dutch police and prosecution authorities failed in their essential duties to conduct thorough and complete investigations into the incidents, and recommended that the State provide the applicant with relief commensurate with the moral damage that he suffered.

*Pashim Banga Khet Mazdoor Samity v. State of West Bengal*

**Forum:** India Supreme Court

**Rights:** To health, to life

**Action:** This case challenged the failure of the government to provide timely emergency medical treatment. The Supreme Court of India held that such failure constituted a violation of the right to life and directed the state to compensate the petitioners and to enact various remedial measures.

**Protecting the Rural Poor in Nepal****Human Rights**

**Defender:** [Rural Reconstruction Nepal \(RRN\)](#), a Nepal-based non-governmental organization that believes that the rural poor are confronted by four basic, interlocking problems: (1) poverty, (2) ignorance, (3) disease, and (4) civic inertia.

**Rights:** To participation, to development

**Action:** Organized around the precept that the rural poor have the potential for self-

development, but just lack the opportunity to release this power, RRN has established multi-purpose training centers that encourage human resource development at both the community and the organizational level. The centers are fully equipped with modernly-furnished halls, an overhead projector, television screen with video cassette recorders, a kitchen, dining room and a dormitory. Under its human resource development focal point, RRN provides practical training in agriculture, kitchen gardening, nursery raising, bio-intensive gardening, and community forestry.

[African Commission on Human and Peoples' Rights Decision  
on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social  
Rights / Nigeria Case Summary](#)

## Human Rights

**Defenders:** [Social and Economic Rights Action Center \(SERAC\)](#) and the [Center for Economic and Social Rights \(CESR\)](#)

-

**Forum:** African Commission on Human and Peoples' Rights

**Rights:** To life, to property, to health, to family life, to a healthy environment, to development, to food, to an adequate standard of living, of self-determination

**Action:** On the merits of a March 1996 communication filed by the Social and Economic Rights Action Center (SERAC) and the Center for Economic and Social Rights (CESR), the African Commission on Human and Peoples' Rights found that the Federal Republic of Nigeria was in violation of articles 2 (equality of rights), 4 (right to life), 14 (right to property), 16 (right to health), 18(1) (right to family life), 21 (peoples' right to the free disposal of wealth and natural resources) and 24 (right to a healthy environment) of the [African Charter on Human and Peoples' Rights](#). The communication alleged that the Nigerian government: (a) directly participated in air, water and soil contamination of oil-producing lands, thereby endangering the health of the Ogoni People; (b) failed to protect the Ogoni from harm caused by the Nigerian National Petroleum Company (NNPC) Shell Consortium and instead used its security forces to facilitate the damage; and (c) failed to provide or permit studies of potential or actual environmental and health risks caused by the oil operations. During a March 1997 site visit, members of the African Commission observed the environmental degradation, and were shown Ogoni villages and homes that had been attacked, burned, and destroyed.

Welcoming the opportunity to "make clear that there is no right in the African Charter that cannot be made effective" and that "international law and human rights must be responsive to African circumstances", the Commission made a series of particular advances in the economic, social and cultural rights regime. First, the Commission declared that all rights - both civil and political rights and social and economic rights- entail four layers of both negative and positive duties incumbent on a State that undertakes to adhere to a rights regime (i.e. the duty to respect, protect, promote and fulfil these rights). With respect to the duty to respect, the Commission noted that "the State is obliged to respect the free use of resources owned or at the disposal of the individual alone or in any form of association with others ... for the purpose of rights-related needs. And with regard to a collective group, the resources belonging to it should be respected, as it has to use the same resources to satisfy its needs." On the duty to protect, the Commission observed that State protection must include an effective interplay of laws and regulations that found an environment where the individual may fully realize their rights and freedoms. According to the Commission, the duty to promote encompasses the need for the State to promote tolerance, raise awareness and build infrastructures. For the duty to fulfill, the Commission identified a "positive expectation on the part of the State to move its machinery towards the actual realization of the rights."

Second, the Commission advanced the right to adequate housing on the Continent by stating that, “although the right to housing or shelter is not explicitly provided for under the African Charter, ... when housing is destroyed, property, health, and family life are adversely affected. [T]hus ... the combined effect of Articles 14, 16, and 18(1) reads into the Charter a right to shelter or housing...” Moreover, the Commission extended the right to shelter to “embody the individual’s right to be let alone and to live in peace - whether under a roof or not.” This decision established important legal precedent in the region as it affirmed that the displaced, evicted, and landless each have fundamental rights to shelter and adequate housing.

Third, the Commission became one of the first regional human rights monitoring bodies to find a State in violation of the right to food. Its decision inseparably linked the right to food with the dignity of human beings, the right to health, education, work and political participation. The Commission also reinforced that the State must protect and improve existing food sources, ensure access to adequate food for all citizens, and should not destroy or contaminate food sources or allow private parties to do the same.

Fourth, with respect to the rights to health and a healthy environment, the Commission found that compliance with the spirit of the Charter includes paving the way for independent scientific monitoring of threatened environments, publicizing environmental and social impact studies prior to major industrial developments, environmental monitoring and information-sharing and consultation with stakeholder communities.

Finally, the Commission concretized the necessary role of States to work with and against multinational governments to ensure that social and economic rights are respected protected, promoted, and fulfilled. Observing that “the intervention of multinational corporations may be a potentially positive force for development if the State and the people concerned are ever mindful of the common good and the sacred rights of individuals and communities”, the Commission nonetheless noted that damaging acts may be perpetuated by private parties. The Commission relied upon decisions from two other regional human rights monitoring bodies, the Inter-American Court of Human Rights (*Velásquez Rodríguez v. Honduras*) and the European Court of Human Rights (*X and Y v. Netherlands*) to support its holding that the minimum conduct expected of governments is to positively act to protect citizens from private parties seeking to interfere with the enjoyment of their rights.

### **Legislating for the Poor**

#### **Human Rights**

**Defender:** Social and Economic Rights Action Center (SERAC)

**Action:** In March 2002, SERAC convened the *Legislating for the Poor Summit* that focused on orienting Nigeria’s federal and state legislative processes towards tackling the conditions which create and nurture poverty. The forum provided an opportunity for federal and state lawmakers to interact with representatives of diverse sectors of society, including: leaders of community-based organizations (CBOs), the president and mobilization officer of the National Association of Nigerian Students (NANS), members of media, labor leaders, medical professionals, clerics, members of the National Human Rights Commission and their South African counterpart, civil society groups, and the public-at-large. The summit participants deliberated for two days on the efficaciousness of poverty alleviation programs, locating the responsibilities of a democratic legislature in making human rights meaningful for the poor, developing a people-centered legislative action plan for combating poverty, and incorporating the South African perspective on human rights and poverty into Nigeria’s legislative processes.

*Chassagnou v. France*

**Forum:** European Court of Human Rights

**Rights:** To freedom of association, freedom of opinion and expression, own land and other property

**Problem:** Nine landowners who opposed hunting on ethical grounds were statutorily required to join a municipal hunters' association and transfer their hunting rights over to the association. Only those holding properties exceeding a minimum threshold land area could opt out of the membership and avoid such transfers.

**Action:** Small landowners petitioned the European Court of Human Rights on the grounds that the compulsory membership was incompatible with their rights to freedom of association, to opinion and conscience, and to the peaceful enjoyment of their properties. The Court agreed, and ordered France to pay each of the nine applicants 30,000 francs in non-pecuniary damages.

*Hoffman v. South African Airways*

**Forum:** Constitutional Court of South Africa

**Rights:** To work, to life, to an adequate standard of living

**Marginalized**

**Group:** People Living with HIV/AIDS

**Action:** A person living with HIV/AIDS was refused employment as a South African Airways cabin attendant solely because of his HIV-positive status. The petitioner argued that the blanket exclusion of People Living with HIV/AIDS (PLWHA) violated his economic, social and cultural rights.

After finding on the basis of medical evidence that an asymptomatic HIV-positive person can competently perform the duties of a cabin attendant, the Court ruled that PLWHA "must not be condemned to 'economic death' by the denial of equal opportunity in employment" and ordered the airline to hire the applicant.

**Community Action Program Committees (CAPCOMs)  
Mobilize Around ESC Rights Issues in Nigeria**

**Human Rights**

**Defender:** [Social and Economic Rights Action Center \(SERAC\)](#)

**Action:** Aiming at taking full advantage of the inherent collective action potential of economic and social rights, SERAC cultivates relationships with remote communities in Nigeria, and where available, works through existing organizational structures within host communities to mobilize around ESC rights issues. Comprised of community leaders and representatives, the Community Action Program Committee (CAPCOM) serves as the rallying point for this work and is currently active in twelve communities nationwide. Particular care is taken in each CAPCOM to ensure the active and full participation of women.

Importantly, SERAC makes it a point to facilitate exchange visits among different communities, and more experienced community leaders are used as speakers and trainers in other communities. Increasingly, this approach is strengthening ties between distant communities and helping to cultivate a common platform for further action.

CAPCOM has given great leverage to its host communities. It has emboldened them; strengthened their control of their own internal affairs; raised their profile and capacity to engage officials in dialogue around matters that concern them; and has greatly enhanced their visibility. Many of the older CAPCOMs such as the Maroko community operate with little reference to SERAC because their leaders have become highly skilled in advocacy and negotiation. SERAC continues, however, to provide technical, legal and other logistical support. In the Maroko example, CAPCOM remains highly instrumental to the success of the Maroko struggle for resettlement. To wit, the current government in Lagos State has now officially accepted legal responsibility for the community's demolition and therefore a duty to provide compensation and resettlement.

In another region of Nigeria, the CAPCOM in Ozorro, Delta State has been at the forefront of efforts to hold Shell Petroleum Development Corporation (Nig. Ltd.) accountable for the company's dumping of toxic waste in Ibo Bush, Erovie land. Pressure mobilized by SERAC and the local CAPCOM led the federal government to establish the Joint Investigation Panel (JIP) that is mandated to inquire into the toxicity of the substances injected at the location and to propose further measures to the government.

### Useful Links

[Organizations actively engaged in ESC rights work](#)

#### **Human rights search engines and research aids**

[Project Diana](#)

*International Legal Materials*

*Human Rights Internet Reporter*

*Human Rights Law Journal*

*Human Rights Quarterly*

*Human Rights Tribune*

*Human Rights Reports*

*The Review*

*The Women's Watch*

*Australian Journal of Human Rights*

*Canadian Human Rights Yearbook*

*Columbia Human Rights Law Review*

*Harvard Human Rights Journal*

*Human Rights Law Journal*

*International Human Rights Reports*

*Israel Yearbook on Human Rights*

*Netherlands Quarterly of Human Rights*

*New York Law School Journal of Human Rights*

*South African Journal of Human Rights*

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[Frontline](#) is an international foundation organized for the protection of human rights defenders that defends those who champion the [Universal Declaration of Human Rights](#).

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## Report a Bad Link or Request a Link to this Manual

### Internal Search Engine

#### Site Map

---

#### Introduction

ESC Rights: A Valid History, A Vibrant Future

What is the ESC Rights Approach?

The Obligations of States

Generic Obligations

ESC Rights and Non-State Actors

The ESC Rights Framework

Right to:      an adequate standard of living  
work and rights at work  
adequate housing  
the highest attainable standard of health  
adequate food  
education  
a healthy environment  
water and sanitation  
family life  
benefit from scientific advancement  
social security  
life  
own land and other property  
self-determination  
participation  
development  
freedom of association

Selected Governing Standards

United Nations Treaties

Other Universal Treaties

Other United Nations Instruments

Instruments Adopted by United Nations Agencies

Regional Instruments

Miscellaneous

ESC Rights and Poverty

Poverty is a Violation of Human Rights

A Human Rights Approach to Development

Beneficiaries of ESC Rights

Women  
 Children  
 Older Persons  
 Persons with Disabilities  
 People Living with HIV/AIDS  
 Migrant Workers  
 National, Ethnic, Religious and Linguistic Minorities  
 Indigenous Peoples  
 Forcibly Evicted Persons and Otherwise Internally Displaced Persons  
 Prisoners and Detained Persons  
 Stateless Persons

Refugees

### Claiming ESC Rights: A People-Centered Approach

Monitoring  
 Human Rights Research and Reporting  
 Policy Analysis  
 Advocacy  
 Community Organizing and Mobilization  
 Legal Assistance and Litigation  
 Alternative Dispute Resolution  
 Networking  
     With Other Activists and Organizations  
     Linking up Similarly-Situated Individuals, Communities and Peoples  
 Legislative Advocacy  
 ESC Rights Training, Internships and Professional Development Opportunities  
 Applied Budget Analysis  
 Micro-credit Initiatives  
 Using International Human Rights Mechanisms and other related United Nations Procedures

### Case Studies and Summaries

Project Stakeholders Oppose World Bank ESC Rights Violations  
 Shantistar Builders v. Narayan Khimalal Tatome and Others  
[The Maroko Community's Quest for Resettlement, Rehabilitation and Reconciliation](#)  
 Amilcar Menéndez, Juan Manuel Caride y otros  
 Caux Round Table: Principles for Business  
 Water Privateers Forced Out of Bolivia  
 Living Wage Movement in USA  
 Guatemalan Union Leaders Face Stiff Reprisals for Opposing Unsafe Working  
[Sandra Lovelace v. Canada](#)  
 L.K. v. Netherlands  
 Pashim Banga Khet Mazdoor Samity v. State of West Bengal  
 Protecting the Rural Poor in Nepal  
 African Commission on Human and Peoples' Rights Decision on Communication 155/96 The Social and Economic Rights Action Center and the Center for Economic and Social Rights / Nigeria  
 Legislating for the Poor  
 Chassagnou v. France  
 Hoffman v. South African Airways  
 Community Action Program Committees (CAPCOMs) Mobilize Around ESC Rights Issues in Nigeria

Conditions

## Useful Links

[Organizations actively engaged in ESC rights work](#)

[Human rights search engines and research aids](#)

[Miscellaneous](#)

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# Office of the High Commissioner for Human Rights



## Universal Declaration of Human Rights

[Languages](#) | [Regions](#) | [Sources](#) | [Feedback](#)



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[E-Book](#)



[PDF version](#)

### English Version

Source: United Nations Department of Public Information

## Universal Declaration of Human Rights

### Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, therefore,

The General Assembly,

Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

### Article 1

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

### Article 2

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

### Article 3

Everyone has the right to life, liberty and security of person.

#### PROFILE

##### Native Name

English

##### Total Speakers

322,000,000 (1995)

##### Usage by Country

Europe -  
Official Language: Gibraltar, Ireland, Malta, United Kingdom

Asia -  
Official Language: India, Pakistan, Philippines, Singapore

Africa -  
Official Language: Botswana, Cameroon, Gambia, Ghana, Kenya, Lesotho, Liberia, Malawi, Mauritius, Namibia, Nigeria, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, Zambia

Central and South America -  
Official Language: Anguilla, Antigua & Barbuda, Bahamas, Barbados, Belize, Bermuda, Br. Virgin Isl.s, Dominica, Falklands, Grenada, Guyana, Jamaica, Montserrat, Puerto Rico, St. Kitts & Nevis, St. Lucia, St. Vincent, Trinidad & Tobago, Turks & Caicos Islands, US Virgin Islands

North America -  
Official Language: Canada, USA

Oceania -  
Official Language: American Samoa, Australia, Belau, Cook Islands, Fiji, Guam, Kiribati, Marshall Islands, Micronesia, Nauru, New Zealand, Niue, Norfolk Islands, Northern Mariannas, Papua New Guinea, Solomon Islands, Tokelau, Tonga, Tuvalu, Vanuatu, Western Samoa.

##### Background

It belongs to the Indo-European family, Germanic group, West Germanic subgroup and is the official language of over 1.7 billion people. Home speakers are over 330 million. As regards the evolution of the English language, three main phases can be distinguished. From the 6th and 5th centuries B. C., the Celts are believed to have lived in the place where we now call Britain. Britain first appeared in the historical records as Julius Caesar campaigned there in 55-54 B. C. Britain was conquered in 43 A. D. and remained under the Roman occupation until 410 A. D. Then came from the European Continent the Germanic tribes, who spoke the languages belonging to the West Germanic branch of the Indo-European language family. First the Jutes from Jutland (present-day Denmark) in the 3rd century A. D., then in the 5th century, the Saxons from Friesland, Frisian Islands and north-west Germany, finally the Angles, from present-day Schleswig-Holstein (a German Land) who settled north of the Thames. The words "England" and "English", come from the word, "Angles". During the Old English period of 450-1,100 A. D. (first phase), Britain experienced the spread of Christianity, and, from the 8th century, the invasion and occupation by the Vikings, called the "Danes." The most important event of the second phase, the Middle English period (1100-1500 A. D.) was the Norman Conquest of 1066. The Normans were the North Men, meaning the Vikings from Scandinavia, settled in the Normandy region of France from the 9th century, who had assimilated themselves to the French language and culture. English was much influenced by French during this time. During the third phase, the Modern English period (1500 onwards), English spread to the world as the British Empire colonised many lands. William Shakespeare (1564-1616) lived in this period, and in 1755 Samuel Johnson completed "A Dictionary of the English Language" with about 40,000 entries, which contributed to the standardisation of the English language. The English language which spread to the world created many of its variants, the most prominent of which is American English. The American English writing system is said to owe much to Noah Webster's "An American Dictionary of the English Language" which was completed in 1828. Other important varieties include Indian English, Australian English, and many English-based Creoles and Pidgins.

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[Sources](#)

## Article 4

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

## Article 5

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

## Article 6

Everyone has the right to recognition everywhere as a person before the law.

## Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

## Article 8

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

## Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

## Article 10

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

## Article 11

1. Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
2. No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

## Article 12

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

## Article 13

1. Everyone has the right to freedom of movement and residence within the borders of each State.
2. Everyone has the right to leave any country, including his own, and to return to his country.

## Article 14

1. Everyone has the right to seek and to enjoy in other countries asylum from persecution.
2. This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

## Article 15

1. Everyone has the right to a nationality.
2. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

## Article 16

1. Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
2. Marriage shall be entered into only with the free and full consent of the intending spouses.
3. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

## Article 17

1. Everyone has the right to own property alone as well as in association with others.
2. No one shall be arbitrarily deprived of his property.

## Article 18

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

## Article 19

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

## Article 20

1. Everyone has the right to freedom of peaceful assembly and association.
2. No one may be compelled to belong to an association.

## Article 21

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right to equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

## Article 22

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

## Article 23

1. Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
2. Everyone, without any discrimination, has the right to equal pay for equal work.
3. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
4. Everyone has the right to form and to join trade unions for the protection of his interests.

## Article 24

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

## Article 25

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

circumstances beyond his control.

2. Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

## Article 26

1. Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
2. Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.
3. Parents have a prior right to choose the kind of education that shall be given to their children.

## Article 27

1. Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
2. Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

## Article 28

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

## Article 29

1. Everyone has duties to the community in which alone the free and full development of his personality is possible.
2. In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.
3. These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

## Article 30

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

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[SITE MAP](#) | [SEARCH](#) | [INDEX](#) | [DOCUMENTS](#) | [TREATIES](#) | [MEETINGS](#) | [PRESS](#) | [STATEMENTS](#)



**Office of the High  
Commissioner for Human Rights**

[Français](#) | [Español](#)



**International Covenant on Economic, Social and Cultural Rights**

**Adopted and opened for signature, ratification and accession by General  
Assembly  
resolution 2200A (XXI) of 16 December 1966**

***entry into force 3 January 1976, in accordance with article 27***

[status of ratifications](#)

[declarations and reservations](#)

***Preamble***

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:


## PART I

### Article 1

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## PART II

### Article 2

1. 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 its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures.  [General comment on its implementation](#)
2. The States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard to human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in the present Covenant to non-nationals.

### **Article 3**

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant.

### **Article 4**

The States Parties to the present Covenant recognize that, in the enjoyment of those rights provided by the State in conformity with the present Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

### **Article 5**

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in the present Covenant.

2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## **PART III**

### **Article 6**

1. The States Parties to the present Covenant recognize the right to work, which includes the right of everyone to the opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.

2. The steps to be taken by a State Party to the present Covenant to achieve the full realization of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and

economic freedoms to the individual.

## **Article 7**

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:

(a) Remuneration which provides all workers, as a minimum, with:

(i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;

(ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;

(b) Safe and healthy working conditions;

(c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;

(d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

## **Article 8**

1. The States Parties to the present Covenant undertake to ensure:

(a) The right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests. No restrictions may be placed on the exercise of this right other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(b) The right of trade unions to establish national federations or confederations and the right of the latter to form or join international trade-union organizations;

(c) The right of trade unions to function freely subject to no limitations other than those prescribed by law and which are necessary in a democratic society in the interests of national security or public order or for the protection of the rights and freedoms of others;

(d) The right to strike, provided that it is exercised in conformity with the laws of the particular country.

2. This article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces or of the police or of the administration of the State.

3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or apply the law in such a manner as would prejudice, the guarantees provided for in that Convention.

## **Article 9**

The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance.

## **Article 10**


The States Parties to the present Covenant recognize that:

1. The widest possible protection and assistance should be accorded to the family, which is the natural and fundamental group unit of society, particularly for its establishment and while it is responsible for the care and education of dependent children. Marriage must be entered into with the free consent of the intending spouses.

2. Special protection should be accorded to mothers during a reasonable period before and after childbirth. During such period working mothers should be accorded paid leave or leave with adequate social security benefits.

3. Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law.

**Article 11**  [General comment on its implementation](#)

1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.  [General comment on its implementation](#)

2. The States Parties to the present Covenant, recognizing the fundamental right of everyone to be free from hunger, shall take, individually and through international co-operation, the measures, including specific programmes, which are needed:

(a) To improve methods of production, conservation and distribution of food by making full use of technical and scientific knowledge, by disseminating knowledge of the principles of nutrition and by developing or reforming agrarian systems in such a way as to achieve the most efficient development and utilization of natural resources;

(b) Taking into account the problems of both food-importing and food-exporting countries, to ensure an equitable distribution of world food supplies in relation to need.

**Article 12**  [General comment on its implementation](#)

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.

### **Article 13** *General comment on its implementation*

1. The States Parties to the present Covenant recognize the right of everyone to education. They agree that education shall be directed to the full development of the human personality and the sense of its dignity, and shall strengthen the respect for human rights and fundamental freedoms. They further agree that education shall enable all persons to participate effectively in a free society, promote understanding, tolerance and friendship among all nations and all racial, ethnic or religious groups, and further the activities of the United Nations for the maintenance of peace.

2. The States Parties to the present Covenant recognize that, with a view to achieving the full realization of this right:

- (a) Primary education shall be compulsory and available free to all;
- (b) Secondary education in its different forms, including technical and vocational secondary education, shall be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education;
- (c) Higher education shall be made equally accessible to all, on the basis of capacity, by every appropriate means, and in particular by the progressive introduction of free education;
- (d) Fundamental education shall be encouraged or intensified as far as possible for those persons who have not received or

completed the whole period of their primary education;

(e) The development of a system of schools at all levels shall be actively pursued, an adequate fellowship system shall be established, and the material conditions of teaching staff shall be continuously improved.

3. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to choose for their children schools, other than those established by the public authorities, which conform to such minimum educational standards as may be laid down or approved by the State and to ensure the religious and moral education of their children in conformity with their own convictions.

4. No part of this article shall be construed so as to interfere with the liberty of individuals and bodies to establish and direct educational institutions, subject always to the observance of the principles set forth in paragraph 1 of this article and to the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

#### **Article 14** **General comment on its implementation**

Each State Party to the present Covenant which, at the time of becoming a Party, has not been able to secure in its metropolitan territory or other territories under its jurisdiction compulsory primary education, free of charge, undertakes, within two years, to work out and adopt a detailed plan of action for the progressive implementation, within a reasonable number of years, to be fixed in the plan, of the principle of compulsory education free of charge for all.

#### **Article 15**

1. The States Parties to the present Covenant recognize the right of everyone:

(a) To take part in cultural life;

(b) To enjoy the benefits of scientific progress and its applications;

(c) To benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic

production of which he is the author.

2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for the conservation, the development and the diffusion of science and culture.

3. The States Parties to the present Covenant undertake to respect the freedom indispensable for scientific research and creative activity.

4. The States Parties to the present Covenant recognize the benefits to be derived from the encouragement and development of international contacts and co-operation in the scientific and cultural fields.

## PART IV

### **Article 16**

1. The States Parties to the present Covenant undertake to submit in conformity with this part of the Covenant reports on the measures which they have adopted and the progress made in achieving the observance of the rights recognized herein.

2. (a) All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit copies to the [Economic and Social Council](#) for consideration in accordance with the provisions of the present Covenant;

(b) The Secretary-General of the United Nations shall also transmit to the specialized agencies copies of the reports, or any relevant parts therefrom, from States Parties to the present Covenant which are also members of these specialized agencies in so far as these reports, or parts therefrom, relate to any matters which fall within the responsibilities of the said agencies in accordance with their constitutional instruments.

### **Article 17** [General comment on its implementation](#)

1. The States Parties to the present Covenant shall furnish their reports in stages, in accordance with a programme to be established by the Economic and Social Council within one year of the entry into force of the present Covenant after consultation with the States Parties and the specialized agencies concerned.

2. Reports may indicate factors and difficulties affecting the degree of fulfilment of obligations under the present Covenant.

3. Where relevant information has previously been furnished to the United Nations or to any specialized agency by any State Party to the present Covenant, it will not be necessary to reproduce that information, but a precise reference to the information so furnished will suffice.

### ***Article 18***

Pursuant to its responsibilities under the Charter of the United Nations in the field of human rights and fundamental freedoms, the Economic and Social Council may make arrangements with the specialized agencies in respect of their reporting to it on the progress made in achieving the observance of the provisions of the present Covenant falling within the scope of their activities. These reports may include particulars of decisions and recommendations on such implementation adopted by their competent organs.

### ***Article 19***

The Economic and Social Council may transmit to the Commission on Human Rights for study and general recommendation or, as appropriate, for information the reports concerning human rights submitted by States in accordance with articles 16 and 17, and those concerning human rights submitted by the specialized agencies in accordance with article 18.

### ***Article 20***

The States Parties to the present Covenant and the specialized agencies concerned may submit comments to the Economic and Social Council on any general recommendation under article 19 or reference to such general recommendation in any report of the Commission on Human Rights or any documentation referred to therein.

### ***Article 21***

The Economic and Social Council may submit from time to time to the General Assembly reports with recommendations of a general nature and a summary of the information received from the States Parties to the present Covenant and the specialized agencies on the measures taken and the progress made in achieving general observance of the rights recognized in the present Covenant.

## **Article 22** *General comment on its implementation*

The Economic and Social Council may bring to the attention of other organs of the United Nations, their subsidiary organs and specialized agencies concerned with furnishing technical assistance any matters arising out of the reports referred to in this part of the present Covenant which may assist such bodies in deciding, each within its field of competence, on the advisability of international measures likely to contribute to the effective progressive implementation of the present Covenant.

## **Article 23**

The States Parties to the present Covenant agree that international action for the achievement of the rights recognized in the present Covenant includes such methods as the conclusion of conventions, the adoption of recommendations, the furnishing of technical assistance and the holding of regional meetings and technical meetings for the purpose of consultation and study organized in conjunction with the Governments concerned.

## **Article 24**

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

## **Article 25**

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

## **PART V**

## **Article 26**

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.
3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.
4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.
5. The Secretary-General of the United Nations shall inform all States which have signed the present Covenant or acceded to it of the deposit of each instrument of ratification or accession.

### **Article 27**

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

### **Article 28**

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

### **Article 29**

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.

2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes.

3. When amendments come into force they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

### **Article 30**

Irrespective of the notifications made under article 26, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 26;

(b) The date of the entry into force of the present Covenant under article 27 and the date of the entry into force of any amendments under article 29.

### **Article 31**

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 26.

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for Human Rights](#)

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[STATEMENTS](#)



## International Covenant on Civil and Political Rights

Adopted and opened for signature, ratification and accession by  
General Assembly resolution 2200A (XXI) of 16 December 1966

*entry into force 23 March 1976, in accordance with Article 49*

[status of ratifications](#)

[declarations and reservations](#)

### *Preamble*

The States Parties to the present Covenant,

Considering that, in accordance with the principles proclaimed in the Charter of the United Nations, recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Recognizing that these rights derive from the inherent dignity of the human person,

Recognizing that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights,

Considering the obligation of States under the Charter of the United Nations to promote universal respect for, and observance of, human rights and freedoms,

Realizing that the individual, having duties to other individuals and to the community to which he belongs, is under a responsibility to strive for the promotion and observance of the rights recognized in the present Covenant,

Agree upon the following articles:

## PART I

### **Article 1** *General comment on its implementation*

1. All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the Charter of the United Nations.

## PART II

### **Article 2** *General comment on its implementation*


1. Each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
2. Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of the present Covenant, to adopt such laws or other measures as may be necessary to give effect to the rights recognized in the present Covenant.
3. Each State Party to the present Covenant undertakes:
  - (a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy,

notwithstanding that the violation has been committed by persons acting in an official capacity;

(b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;

(c) To ensure that the competent authorities shall enforce such remedies when granted.

### **Article 3** [General comment on its implementation](#)

The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.  [General comment on its implementation](#)

### **Article 4** [General comment on its implementation](#)

1 . In time of public emergency which threatens the life of the nation and the existence of which is officially proclaimed, the States Parties to the present Covenant may take measures derogating from their obligations under the present Covenant to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with their other obligations under international law and do not involve discrimination solely on the ground of race, colour, sex, language, religion or social origin.

2. No derogation from articles 6, 7, 8 (paragraphs 1 and 2), 11, 15, 16 and 18 may be made under this provision.

3. Any State Party to the present Covenant availing itself of the right of derogation shall immediately inform the other States Parties to the present Covenant, through the intermediary of the Secretary-General of the United Nations, of the provisions from which it has derogated and of the reasons by which it was actuated. A further communication shall be made, through the same intermediary, on the date on which it terminates such

derogation.  [General comment on its implementation](#)

## Article 5

1. Nothing in the present Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in the present Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any State Party to the present Covenant pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

## PART III

### Article 6 General comment on its implementation

1. Every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his life.
2. In countries which have not abolished the death penalty, sentence of death may be imposed only for the most serious crimes in accordance with the law in force at the time of the commission of the crime and not contrary to the provisions of the present Covenant and to the Convention on the Prevention and Punishment of the Crime of Genocide. This penalty can only be carried out pursuant to a final judgement rendered by a competent court.
3. When deprivation of life constitutes the crime of genocide, it is understood that nothing in this article shall authorize any State Party to the present Covenant to derogate in any way from any obligation assumed under the provisions of the Convention on the Prevention and Punishment of the Crime of Genocide.
4. Anyone sentenced to death shall have the right to seek pardon or commutation of the sentence. Amnesty, pardon or commutation of the sentence of death may be granted in all cases.
5. Sentence of death shall not be imposed for crimes committed by persons below eighteen years of age and shall not be carried out on pregnant women.

6. Nothing in this article shall be invoked to delay or to prevent the abolition of capital punishment by any State Party to the present Covenant.

## **Article 7** **General comment on its implementation**

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

## **Article 8**

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.

2. No one shall be held in servitude.

3.

(a) No one shall be required to perform forced or compulsory labour;

(b) Paragraph 3 (a) shall not be held to preclude, in countries where imprisonment with hard labour may be imposed as a punishment for a crime, the performance of hard labour in pursuance of a sentence to such punishment by a competent court;

(c) For the purpose of this paragraph the term "forced or compulsory labour" shall not include:

(i) Any work or service, not referred to in subparagraph (b), normally required of a person who is under detention in consequence of a lawful order of a court, or of a person during conditional release from such detention;

(ii) Any service of a military character and, in countries where conscientious objection is recognized, any national service required by law of conscientious objectors;

(iii) Any service exacted in cases of emergency or

calamity threatening the life or well-being of the community;

(iv) Any work or service which forms part of normal civil obligations.

## **Article 9** **General comment on its implementation**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

## **Article 10** **General comment on its implementation**

1. All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.

2.

(a) Accused persons shall, save in exceptional circumstances, be segregated from convicted persons and shall be subject to

separate treatment appropriate to their status as unconvicted persons;

(b) Accused juvenile persons shall be separated from adults and brought as speedily as possible for adjudication. 3. The penitentiary system shall comprise treatment of prisoners the essential aim of which shall be their reformation and social rehabilitation. Juvenile offenders shall be segregated from adults and be accorded treatment appropriate to their age and legal status.

## **Article 11**

No one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation.

## **Article 12** **General comment on its implementation**

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.

2. Everyone shall be free to leave any country, including his own.

3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.

4. No one shall be arbitrarily deprived of the right to enter his own country.

## **Article 13**

An alien lawfully in the territory of a State Party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.

**Article 14**  **General comment on its implementation**

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (ordre public) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

(a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;

(b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;

(c) To be tried without undue delay;

(d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;

(e) To examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against

him;

(f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;

(g) Not to be compelled to testify against himself or to confess guilt.

4. In the case of juvenile persons, the procedure shall be such as will take account of their age and the desirability of promoting their rehabilitation.

5. Everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law.

6. When a person has by a final decision been convicted of a criminal offence and when subsequently his conviction has been reversed or he has been pardoned on the ground that a new or newly discovered fact shows conclusively that there has been a miscarriage of justice, the person who has suffered punishment as a result of such conviction shall be compensated according to law, unless it is proved that the non-disclosure of the unknown fact in time is wholly or partly attributable to him.

7. No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the law and penal procedure of each country.

## **Article 15**

1 . No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time when the criminal offence was committed. If, subsequent to the commission of the offence, provision is made by law for the imposition of the lighter penalty, the offender shall benefit thereby.

2. Nothing in this article shall prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles of law recognized by the community of nations.

## **Article 16**

Everyone shall have the right to recognition everywhere as a person

before the law.

**Article 17**  **General comment on its implementation**

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation.
2. Everyone has the right to the protection of the law against such interference or attacks.

**Article 18**  **General comment on its implementation**

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.
2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.
3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. 4. The States Parties to the present Covenant undertake to have respect for the liberty of parents and, when applicable, legal guardians to ensure the religious and moral education of their children in conformity with their own convictions.

**Article 19**  **General comment on its implementation**

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.
3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be

subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

### **Article 20** **▶▶** *General comment on its implementation*

1. Any propaganda for war shall be prohibited by law.
2. Any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.

### **Article 21**

The right of peaceful assembly shall be recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others.

### **Article 22**

1. Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.
2. No restrictions may be placed on the exercise of this right other than those which are prescribed by law and which are necessary in a democratic society in the interests of national security or public safety, public order (ordre public), the protection of public health or morals or the protection of the rights and freedoms of others. This article shall not prevent the imposition of lawful restrictions on members of the armed forces and of the police in their exercise of this right.
3. Nothing in this article shall authorize States Parties to the International Labour Organisation Convention of 1948 concerning Freedom of Association and Protection of the Right to Organize to take legislative measures which would prejudice, or to apply the law in such a manner as

to prejudice, the guarantees provided for in that Convention.

### **Article 23** **General comment on its implementation**

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.
2. The right of men and women of marriageable age to marry and to found a family shall be recognized.
3. No marriage shall be entered into without the free and full consent of the intending spouses.
4. States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution. In the case of dissolution, provision shall be made for the necessary protection of any children.

### **Article 24** **General comment on its implementation**

1. Every child shall have, without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth, the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State.
2. Every child shall be registered immediately after birth and shall have a name.
3. Every child has the right to acquire a nationality.

### **Article 25** **General comment on its implementation**

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the

will of the electors;

(c) To have access, on general terms of equality, to public service in his country.

## **Article 26**

All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

## **Article 27** **General comment on its implementation**

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

## **PART IV**

## **Article 28**

1. There shall be established a Human Rights Committee (hereafter referred to in the present Covenant as the Committee). It shall consist of eighteen members and shall carry out the functions hereinafter provided.

2. The Committee shall be composed of nationals of the States Parties to the present Covenant who shall be persons of high moral character and recognized competence in the field of human rights, consideration being given to the usefulness of the participation of some persons having legal experience.

3. The members of the Committee shall be elected and shall serve in their personal capacity.

## **Article 29**

1. The members of the Committee shall be elected by secret ballot from a list of persons possessing the qualifications prescribed in article 28 and

nominated for the purpose by the States Parties to the present Covenant.

2. Each State Party to the present Covenant may nominate not more than two persons. These persons shall be nationals of the nominating State.
3. A person shall be eligible for renomination.

### ***Article 30***

1. The initial election shall be held no later than six months after the date of the entry into force of the present Covenant.

2. At least four months before the date of each election to the Committee, other than an election to fill a vacancy declared in accordance with article 34, the Secretary-General of the United Nations shall address a written invitation to the States Parties to the present Covenant to submit their nominations for membership of the Committee within three months.

3. The Secretary-General of the United Nations shall prepare a list in alphabetical order of all the persons thus nominated, with an indication of the States Parties which have nominated them, and shall submit it to the States Parties to the present Covenant no later than one month before the date of each election.

4. Elections of the members of the Committee shall be held at a meeting of the States Parties to the present Covenant convened by the Secretary General of the United Nations at the Headquarters of the United Nations. At that meeting, for which two thirds of the States Parties to the present Covenant shall constitute a quorum, the persons elected to the Committee shall be those nominees who obtain the largest number of votes and an absolute majority of the votes of the representatives of States Parties present and voting.

### ***Article 31***

1. The Committee may not include more than one national of the same State.

2. In the election of the Committee, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

### ***Article 32***

1. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. However, the terms of nine of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these nine members shall be chosen by lot by the Chairman of the meeting referred to in article 30, paragraph 4.

2. Elections at the expiry of office shall be held in accordance with the preceding articles of this part of the present Covenant.

### ***Article 33***

1. If, in the unanimous opinion of the other members, a member of the Committee has ceased to carry out his functions for any cause other than absence of a temporary character, the Chairman of the Committee shall notify the Secretary-General of the United Nations, who shall then declare the seat of that member to be vacant.

2. In the event of the death or the resignation of a member of the Committee, the Chairman shall immediately notify the Secretary-General of the United Nations, who shall declare the seat vacant from the date of death or the date on which the resignation takes effect.

### ***Article 34***

1. When a vacancy is declared in accordance with article 33 and if the term of office of the member to be replaced does not expire within six months of the declaration of the vacancy, the Secretary-General of the United Nations shall notify each of the States Parties to the present Covenant, which may within two months submit nominations in accordance with article 29 for the purpose of filling the vacancy.

2. The Secretary-General of the United Nations shall prepare a list in alphabetical order of the persons thus nominated and shall submit it to the States Parties to the present Covenant. The election to fill the vacancy shall then take place in accordance with the relevant provisions of this part of the present Covenant.

3. A member of the Committee elected to fill a vacancy declared in accordance with article 33 shall hold office for the remainder of the term of the member who vacated the seat on the Committee under the provisions of that article.

**Article 35**

The members of the Committee shall, with the approval of the General Assembly of the United Nations, receive emoluments from United Nations resources on such terms and conditions as the General Assembly may decide, having regard to the importance of the Committee's responsibilities.

**Article 36**

The Secretary-General of the United Nations shall provide the necessary staff and facilities for the effective performance of the functions of the Committee under the present Covenant.

**Article 37**

1. The Secretary-General of the United Nations shall convene the initial meeting of the Committee at the Headquarters of the United Nations.
2. After its initial meeting, the Committee shall meet at such times as shall be provided in its rules of procedure.
3. The Committee shall normally meet at the Headquarters of the United Nations or at the United Nations Office at Geneva.

**Article 38**

Every member of the Committee shall, before taking up his duties, make a solemn declaration in open committee that he will perform his functions impartially and conscientiously.

**Article 39**

1. The Committee shall elect its officers for a term of two years. They may be re-elected.
2. The Committee shall establish its own rules of procedure, but these rules shall provide, inter alia, that:
  - (a) Twelve members shall constitute a quorum;
  - (b) Decisions of the Committee shall be made by a majority vote of the members present.

## Article 40

1. The States Parties to the present Covenant undertake to submit reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made in the enjoyment of those rights:

(a) Within one year of the entry into force of the present Covenant for the States Parties concerned;

(b) Thereafter whenever the Committee so requests.

2. All reports shall be submitted to the Secretary-General of the United Nations, who shall transmit them to the Committee for consideration. Reports shall indicate the factors and difficulties, if any, affecting the implementation of the present Covenant.

3. The Secretary-General of the United Nations may, after consultation with the Committee, transmit to the specialized agencies concerned copies of such parts of the reports as may fall within their field of competence.

4. The Committee shall study the reports submitted by the States Parties to the present Covenant. It shall transmit its reports, and such general comments as it may consider appropriate, to the States Parties. The Committee may also transmit to the Economic and Social Council these comments along with the copies of the reports it has received from States Parties to the present Covenant.

5. The States Parties to the present Covenant may submit to the Committee observations on any comments that may be made in accordance with paragraph 4 of this article.

## Article 41 General comment on its implementation

1. A State Party to the present Covenant may at any time declare under this article that it recognizes the competence of the Committee to receive and consider communications to the effect that a State Party claims that another State Party is not fulfilling its obligations under the present Covenant. Communications under this article may be received and considered only if submitted by a State Party which has made a declaration recognizing in regard to itself the competence of the Committee. No communication shall be received by the Committee if it concerns a State Party which has not made such a declaration.

Communications received under this article shall be dealt with in accordance with the following procedure:

(a) If a State Party to the present Covenant considers that another State Party is not giving effect to the provisions of the present Covenant, it may, by written communication, bring the matter to the attention of that State Party. Within three months after the receipt of the communication the receiving State shall afford the State which sent the communication an explanation, or any other statement in writing clarifying the matter which should include, to the extent possible and pertinent, reference to domestic procedures and remedies taken, pending, or available in the matter;

(b) If the matter is not adjusted to the satisfaction of both States Parties concerned within six months after the receipt by the receiving State of the initial communication, either State shall have the right to refer the matter to the Committee, by notice given to the Committee and to the other State;

(c) The Committee shall deal with a matter referred to it only after it has ascertained that all available domestic remedies have been invoked and exhausted in the matter, in conformity with the generally recognized principles of international law. This shall not be the rule where the application of the remedies is unreasonably prolonged;

(d) The Committee shall hold closed meetings when examining communications under this article;

(e) Subject to the provisions of subparagraph (c), the Committee shall make available its good offices to the States Parties concerned with a view to a friendly solution of the matter on the basis of respect for human rights and fundamental freedoms as recognized in the present Covenant;

(f) In any matter referred to it, the Committee may call upon the States Parties concerned, referred to in subparagraph (b), to supply any relevant information;

(g) The States Parties concerned, referred to in subparagraph (b), shall have the right to be represented when the matter is being considered in the Committee and to make submissions orally and/or in writing;

(h) The Committee shall, within twelve months after the date of receipt of notice under subparagraph (b), submit a report:

(i) If a solution within the terms of subparagraph (e) is reached, the Committee shall confine its report to a brief statement of the facts and of the solution reached;

(ii) If a solution within the terms of subparagraph (e) is not reached, the Committee shall confine its report to a brief statement of the facts; the written submissions and record of the oral submissions made by the States Parties concerned shall be attached to the report. In every matter, the report shall be communicated to the States Parties concerned.

2. The provisions of this article shall come into force when ten States Parties to the present Covenant have made declarations under paragraph 1 of this article. Such declarations shall be deposited by the States Parties with the Secretary-General of the United Nations, who shall transmit copies thereof to the other States Parties. A declaration may be withdrawn at any time by notification to the Secretary-General. Such a withdrawal shall not prejudice the consideration of any matter which is the subject of a communication already transmitted under this article; no further communication by any State Party shall be received after the notification of withdrawal of the declaration has been received by the Secretary-General, unless the State Party concerned has made a new declaration.

## **Article 42**

1.

(a) If a matter referred to the Committee in accordance with article 41 is not resolved to the satisfaction of the States Parties concerned, the Committee may, with the prior consent of the States Parties concerned, appoint an ad hoc Conciliation Commission (hereinafter referred to as the Commission). The good offices of the Commission shall be made available to the States Parties concerned with a view to an amicable solution of the matter on the basis of respect for the present Covenant;

(b) The Commission shall consist of five persons acceptable to the States Parties concerned. If the States Parties concerned fail to reach agreement within three months on all or part of the composition of the Commission, the members of the Commission concerning whom no agreement has been reached shall be elected by secret ballot by a two-thirds majority vote of the Committee from among its members.

2. The members of the Commission shall serve in their personal capacity. They shall not be nationals of the States Parties concerned, or of a State not Party to the present Covenant, or of a State Party which has not made a declaration under article 41.

3. The Commission shall elect its own Chairman and adopt its own rules of procedure.

4. The meetings of the Commission shall normally be held at the Headquarters of the United Nations or at the United Nations Office at Geneva. However, they may be held at such other convenient places as the Commission may determine in consultation with the Secretary-General of the United Nations and the States Parties concerned.

5. The secretariat provided in accordance with article 36 shall also service the commissions appointed under this article.

6. The information received and collated by the Committee shall be made available to the Commission and the Commission may call upon the States Parties concerned to supply any other relevant information. 7. When the Commission has fully considered the matter, but in any event not later than twelve months after having been seized of the matter, it shall submit to the Chairman of the Committee a report for communication to the States Parties concerned:

(a) If the Commission is unable to complete its consideration of the matter within twelve months, it shall confine its report to a brief statement of the status of its consideration of the matter;

(b) If an amicable solution to the matter on tie basis of respect for human rights as recognized in the present Covenant is reached, the Commission shall confine its report to a brief statement of the facts and of the solution reached;

(c) If a solution within the terms of subparagraph (b) is not

reached, the Commission's report shall embody its findings on all questions of fact relevant to the issues between the States Parties concerned, and its views on the possibilities of an amicable solution of the matter. This report shall also contain the written submissions and a record of the oral submissions made by the States Parties concerned;

(d) If the Commission's report is submitted under subparagraph (c), the States Parties concerned shall, within three months of the receipt of the report, notify the Chairman of the Committee whether or not they accept the contents of the report of the Commission.

8. The provisions of this article are without prejudice to the responsibilities of the Committee under article 41.

9. The States Parties concerned shall share equally all the expenses of the members of the Commission in accordance with estimates to be provided by the Secretary-General of the United Nations.

10. The Secretary-General of the United Nations shall be empowered to pay the expenses of the members of the Commission, if necessary, before reimbursement by the States Parties concerned, in accordance with paragraph 9 of this article.

### ***Article 43***

The members of the Committee, and of the ad hoc conciliation commissions which may be appointed under article 42, shall be entitled to the facilities, privileges and immunities of experts on mission for the United Nations as laid down in the relevant sections of the Convention on the Privileges and Immunities of the United Nations.

### ***Article 44***

The provisions for the implementation of the present Covenant shall apply without prejudice to the procedures prescribed in the field of human rights by or under the constituent instruments and the conventions of the United Nations and of the specialized agencies and shall not prevent the States Parties to the present Covenant from having recourse to other procedures for settling a dispute in accordance with general or special international agreements in force between them.

### ***Article 45***

The Committee shall submit to the General Assembly of the United Nations, through the Economic and Social Council, an annual report on its activities.

## **PART V**

### ***Article 46 .***

Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations and of the constitutions of the specialized agencies which define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the present Covenant.

### ***Article 47***

Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources.

## **PART VI**

### ***Article 48***

1. The present Covenant is open for signature by any State Member of the United Nations or member of any of its specialized agencies, by any State Party to the Statute of the International Court of Justice, and by any other State which has been invited by the General Assembly of the United Nations to become a Party to the present Covenant.

2. The present Covenant is subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of the United Nations.

3. The present Covenant shall be open to accession by any State referred to in paragraph 1 of this article.

4. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

5. The Secretary-General of the United Nations shall inform all States which have signed this Covenant or acceded to it of the deposit of each instrument of ratification or accession.

**Article 49**

1. The present Covenant shall enter into force three months after the date of the deposit with the Secretary-General of the United Nations of the thirty-fifth instrument of ratification or instrument of accession.
2. For each State ratifying the present Covenant or acceding to it after the deposit of the thirty-fifth instrument of ratification or instrument of accession, the present Covenant shall enter into force three months after the date of the deposit of its own instrument of ratification or instrument of accession.

**Article 50**

The provisions of the present Covenant shall extend to all parts of federal States without any limitations or exceptions.

**Article 51**

1. Any State Party to the present Covenant may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General of the United Nations shall thereupon communicate any proposed amendments to the States Parties to the present Covenant with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that at least one third of the States Parties favours such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of the States Parties present and voting at the conference shall be submitted to the General Assembly of the United Nations for approval.
2. Amendments shall come into force when they have been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of the States Parties to the present Covenant in accordance with their respective constitutional processes. 3. When amendments come into force, they shall be binding on those States Parties which have accepted them, other States Parties still being bound by the provisions of the present Covenant and any earlier amendment which they have accepted.

**Article 52**

Irrespective of the notifications made under article 48, paragraph 5, the Secretary-General of the United Nations shall inform all States referred to in paragraph 1 of the same article of the following particulars:

(a) Signatures, ratifications and accessions under article 48;

(b) The date of the entry into force of the present Covenant under article 49 and the date of the entry into force of any amendments under article 51.

### **Article 53**

1. The present Covenant, of which the Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited in the archives of the United Nations.

2. The Secretary-General of the United Nations shall transmit certified copies of the present Covenant to all States referred to in article 48.

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[CONTACT](#) | [HOME](#) | [SITE MAP](#) | [SEARCH](#) | [INDEX](#) | [DOCUMENTS](#) | [TREATIES](#) | [MEETINGS](#) | [NEWS ROOM](#)

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OFFICE OF THE HIGH COMMISSIONER  
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***The nature of States parties obligations (Art. 2, par.1) : . 12/14/1990.  
CESCR General comment 3. (General Comments)***

Convention Abbreviation: CESCR

GENERAL COMMENT 3

The nature of States parties obligations

(Art. 2, para. 1 of the Covenant)

(Fifth session, 1990) \*

The nature of States parties obligations (art. 2, para. 1 of the Covenant)

1. Article 2 is of particular importance to a full understanding of the Covenant and must be seen as having a dynamic relationship with all of the other provisions of the Covenant. It describes the nature of the general legal obligations undertaken by States parties to the Covenant. Those obligations include both what may be termed (following the work of the International Law Commission) obligations of conduct and obligations of result. While great emphasis has sometimes been placed on the difference between the formulations used in this provision and that contained in the equivalent article 2 of the International Covenant on Civil and Political Rights, it is not always recognized that there are also significant similarities. In particular, while the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes various obligations which are of immediate effect. Of these, two are of particular importance in understanding the precise nature of States parties obligations. One of these, which is dealt with in a separate general comment, and which is to be considered by the Committee at its sixth session, is the "undertaking to guarantee" that relevant rights "will be exercised without discrimination ...".

2. The other is the undertaking in article 2 (1) "to take steps", which in itself, is not qualified or limited by other considerations. The full meaning of the phrase can also be gauged by noting some of the different language versions. In English the undertaking is "to take steps", in French it is "to act" ("s'engage à agir") and in Spanish it is "to adopt measures" ("a adoptar medidas"). Thus while the full realization of the relevant rights may be achieved progressively, steps towards that goal must be taken within a reasonably short time after the Covenant's entry into force for the States concerned. Such steps should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.

3. The means which should be used in order to satisfy the obligation to take steps are stated in article 2 (1) to be "all appropriate means, including particularly the adoption of legislative measures". The Committee recognizes that in many instances legislation is highly desirable and in some cases may even be indispensable. For example, it may be difficult to combat discrimination effectively in the absence of a sound legislative foundation for the necessary measures. In fields such as health, the protection of children and mothers, and education, as well as in respect of the matters dealt with in articles 6 to 9, legislation may also be an indispensable element for many purposes.

4. The Committee notes that States parties have generally been conscientious in detailing at least some of the legislative measures that they have taken in this regard. It wishes to emphasize, however, that the adoption of legislative measures, as specifically foreseen by the Covenant, is by no means exhaustive of the obligations of States

parties. Rather, the phrase "by all appropriate means" must be given its full and natural meaning. While each State party must decide for itself which means are the most appropriate under the circumstances with respect to each of the rights, the "appropriateness" of the means chosen will not always be self-evident. It is therefore desirable that States parties' reports should indicate not only the measures that have been taken but also the basis on which they are considered to be the most "appropriate" under the circumstances. However, the ultimate determination as to whether all appropriate measures have been taken remains one for the Committee to make.

5. Among the measures which might be considered appropriate, in addition to legislation, is the provision of judicial remedies with respect to rights which may, in accordance with the national legal system, be considered justiciable. The Committee notes, for example, that the enjoyment of the rights recognized, without discrimination, will often be appropriately promoted, in part, through the provision of judicial or other effective remedies. Indeed, those States parties which are also parties to the International Covenant on Civil and Political Rights are already obligated (by virtue of arts. 2 (paras. 1 and 3), 3 and 26) of that Covenant to ensure that any person whose rights or freedoms (including the right to equality and non-discrimination) recognized in that Covenant are violated, "shall have an effective remedy" (art. 2 (3) (a)). In addition, there are a number of other provisions in the International Covenant on Economic, Social and Cultural Rights, including articles 3, 7 (a) (i), 8, 10 (3), 13 (2) (a), (3) and (4) and 15 (3) which would seem to be capable of immediate application by judicial and other organs in many national legal systems. Any suggestion that the provisions indicated are inherently non-self-executing would seem to be difficult to sustain.

6. Where specific policies aimed directly at the realization of the rights recognized in the Covenant have been adopted in legislative form, the Committee would wish to be informed, *inter alia*, as to whether such laws create any right of action on behalf of individuals or groups who feel that their rights are not being fully realized. In cases where constitutional recognition has been accorded to specific economic, social and cultural rights, or where the provisions of the Covenant have been incorporated directly into national law, the Committee would wish to receive information as to the extent to which these rights are considered to be justiciable (i.e. able to be invoked before the courts). The Committee would also wish to receive specific information as to any instances in which existing constitutional provisions relating to economic, social and cultural rights have been weakened or significantly changed.

7. Other measures which may also be considered "appropriate" for the purposes of article 2 (1) include, but are not limited to, administrative, financial, educational and social measures.

8. The Committee notes that the undertaking "to take steps ... by all appropriate means including particularly the adoption of legislative measures" neither requires nor precludes any particular form of government or economic system being used as the vehicle for the steps in question, provided only that it is democratic and that all human rights are thereby respected. Thus, in terms of political and economic systems the Covenant is neutral and its principles cannot accurately be described as being predicated exclusively upon the need for, or the desirability of a socialist or a capitalist system, or a mixed, centrally planned, or *laissez-faire* economy, or upon any other particular approach. In this regard, the Committee reaffirms that the rights recognized in the Covenant are susceptible of realization within the context of a wide variety of economic and political systems, provided only that the interdependence and indivisibility of the two sets of human rights, as affirmed *inter alia* in the preamble to the Covenant, is recognized and reflected in the system in question. The Committee also notes the relevance in this regard of other human rights and in particular the right to development.

9. The principal obligation of result reflected in article 2 (1) is to take steps "with a view to achieving progressively the full realization of the rights recognized" in the Covenant. The term "progressive realization" is often used to describe the intent of this phrase. The concept of progressive realization constitutes a recognition of the fact that full realization of all economic, social and cultural rights will generally not be able to be achieved in a short period of time. In this sense the obligation differs significantly from that contained in article 2 of the International Covenant on Civil and Political Rights which embodies an immediate obligation to respect and ensure all of the relevant rights. Nevertheless, the fact that realization over time, or in other words progressively, is foreseen under the Covenant should not be misinterpreted as depriving the obligation of all meaningful content. It is on the one hand a necessary flexibility device, reflecting the realities of the real world and the difficulties involved for any country in ensuring full realization of economic, social and cultural rights. On the other hand, the phrase must be read in the light of the overall objective, indeed the *raison d'être*, of the Covenant which is to establish clear obligations for States parties in respect of the full

realization of the rights in question. It thus imposes an obligation to move as expeditiously and effectively as possible towards that goal. Moreover, any deliberately retrogressive measures in that regard would require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources.

10. On the basis of the extensive experience gained by the Committee, as well as by the body that preceded it, over a period of more than a decade of examining States parties' reports the Committee is of the view that a minimum core obligation to ensure the satisfaction of, at the very least, minimum essential levels of each of the rights is incumbent upon every State party. Thus, for example, a State party in which any significant number of individuals is deprived of essential foodstuffs, of essential primary health care, of basic shelter and housing, or of the most basic forms of education is, *prima facie*, failing to discharge its obligations under the Covenant. If the Covenant were to be read in such a way as not to establish such a minimum core obligation, it would be largely deprived of its *raison d'être*. By the same token, it must be noted that any assessment as to whether a State has discharged its minimum core obligation must also take account of resource constraints applying within the country concerned. Article 2 (1) obligates each State party to take the necessary steps "to the maximum of its available resources". In order for a State party to be able to attribute its failure to meet at least its minimum core obligations to a lack of available resources it must demonstrate that every effort has been made to use all resources that are at its disposition in an effort to satisfy, as a matter of priority, those minimum obligations.

11. The Committee wishes to emphasize, however, that even where the available resources are demonstrably inadequate, the obligation remains for a State party to strive to ensure the widest possible enjoyment of the relevant rights under the prevailing circumstances. Moreover, the obligations to monitor the extent of the realization, or more especially of the non-realization, of economic, social and cultural rights, and to devise strategies and programmes for their promotion, are not in any way eliminated as a result of resource constraints. The Committee has already dealt with these issues in its General Comment 1 (1989).

12. Similarly, the Committee underlines the fact that even in times of severe resources constraints whether caused by a process of adjustment, of economic recession, or by other factors the vulnerable members of society can and indeed must be protected by the adoption of relatively low-cost targeted programmes. In support of this approach the Committee takes note of the analysis prepared by UNICEF entitled "Adjustment with a human face: protecting the vulnerable and promoting growth," <sup>1/</sup> the analysis by UNDP in its Human Development Report 1990 <sup>2/</sup> and the analysis by the World Bank in the World Development Report 1990 <sup>3/</sup>.

13. A final element of article 2 (1), to which attention must be drawn, is that the undertaking given by all States parties is "to take steps, individually and through international assistance and cooperation, especially economic and technical ...". The Committee notes that the phrase "to the maximum of its available resources" was intended by the drafters of the Covenant to refer to both the resources existing within a State and those available from the international community through international cooperation and assistance. Moreover, the essential role of such cooperation in facilitating the full realization of the relevant rights is further underlined by the specific provisions contained in articles 11, 15, 22 and 23. With respect to article 22 the Committee has already drawn attention, in General Comment 2 (1990), to some of the opportunities and responsibilities that exist in relation to international cooperation. Article 23 also specifically identifies "the furnishing of technical assistance" as well as other activities, as being among the means of "international action for the achievement of the rights recognized ...".

14. The Committee wishes to emphasize that in accordance with Articles 55 and 56 of the Charter of the United Nations, with well-established principles of international law, and with the provisions of the Covenant itself, international cooperation for development and thus for the realization of economic, social and cultural rights is an obligation of all States. It is particularly incumbent upon those States which are in a position to assist others in this regard. The Committee notes in particular the importance of the Declaration on the Right to Development adopted by the General Assembly in its resolution 41/128 of 4 December 1986 and the need for States parties to take full account of all of the principles recognized therein. It emphasizes that, in the absence of an active programme of international assistance and cooperation on the part of all those States that are in a position to undertake one, the full realization of economic, social and cultural rights will remain an unfulfilled aspiration in many countries. In this respect, the

Committee also recalls the terms of its General Comment 2 (1990).

### Notes

\* Contained in document E/1991/23.

1/ G.A. Cornia, R. Jolly and F. Stewart, eds., Oxford, Clarendon Press, 1987.

2/ Oxford, Oxford University Press, 1990.

3/ Oxford, Oxford University Press, 1990.



[TOP](#) | [HOME](#) | [INSTRUMENTS](#) | [DOCUMENTS](#) | [INDEX](#) | [SEARCH](#)

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