

**Written contribution to the Draft General Comment on Science
and economic, social and cultural rights (Art. 15: 15.1.b, 15.2, 15.3 and 15.4)**

The Associazione Luca Coscioni (ALC) and Science for Democracy (SfD) commend the work of the United Nations Committee on Economic, Social and Cultural Rights on their comprehensive “General Comment on Science” (GC) that has addressed the implications of science within a human rights framework.

The ALC dedicated its 2015 General Assembly to the “Right to Science”, and has been working to highlight the implications and repercussions of science on the welfare and wellbeing of society. Since its founding in October 2018, SfD has reinforced those activities to raise awareness on the need to take into consideration as many scientific developments as possible in the drafting of the GC. A [series of side-events at the UN in Geneva, New York, and Vienna](#) have been organized to promote the inclusion of science-related issues within the wider human rights discourse thanks to the contribution of jurists and scientists.

Given the importance of the General Comment, the ALC and SfD wish to stress the need to place the final paragraph at the beginning of the text. The term “right to science” is already a term of art, widely used because it is more succinct than “the right to enjoy benefits arising from progress in science and technology”. Embracing the term would help reduce confusion and ambiguity, and facilitate public awareness of the rights described in Article 15 of the Covenant on Economic, Social and Cultural Rights. The arguments provided should be developed into guidelines for Member States to assist them in their implementation of Article 15 of the International Covenant on Economic Social and Cultural Rights.

The rationale behind these recommendations is the belief that States should promote, rather than hinder, all scientific research that has the potential to improve lives. This can be achieved by providing a cure for diseases and disabilities afflicting mankind, developing new breeding techniques that improve food safety, or even pure research that does not bring any immediate tangible result, but creates knowledge on which to build further research.

Comments and Suggested Edits:

I. Introduction and basic premises

1. It seems that the first paragraph does not add anything to the report and it actually runs the risk of detracting from its authoritativeness. Is it really necessary to present science as a potential problem? The report would work well without this paragraph and by starting at paragraph 2.
2. The word “ambivalent” does not properly convey the message in this instance. It is advisable to use a periphrasis in this context. Replace “*mains*” with “*aims*”.
3. Paragraph 89 truly belongs here, as paragraph 5.

II. Normative content

“Scientific progress and its applications”

5. Replace the “*retains*” with “*espouses*” (To espouse: *to choose and follow; as of theories, ideas, policies, strategies or plans*)

“The freedom indispensable for scientific research and creative activity”

18. “the protection of researchers from undue influence on their independent judgement; their possibility to contribute to the definition”. The list in this sentence should be framed as freedoms instead of “possibilities”: The

freedom from influence... the freedom to contribute to... the freedom to express; the freedom to cooperate; the freedom of sharing...

Interdependence with other rights

19. “The right to enjoy the benefits of scientific progress and its applications is a human right with an intrinsic value; it has to be fulfilled even if it does not contribute positively to the enjoyment of other rights.” Is this sentence necessary? What is the positive meaning of it?

That being said, what is lacking in this GC is a sentence or two on the merits of pure research, the kind of research conducted without knowing where it might lead. That should always be allowed. Closing research paths *a priori* is extremely problematic.

Elements of the right

The qualifier “verifiable” and “reproducible” should be added as follows :

24. Quality refers to the most advanced, up-to-date, **verifiable, reproducible** and generally accepted science available at the time, which is considered by the scientific community to meet certain minimum standards. This element applies both to the process of scientific creation and to access to the applications and benefits of science.

B. Possibility of limitations

29. “dignity” The term dignity is used everywhere in human rights documents but no one can define it, or at least there is no commonly accepted definition of it. Philosophers have been trying to define it for two thousand years and the meaning keeps changing (from Cicero to St. Augustin, Pico de La Mirandola to Jeremy Waldron). Is it necessary?

The sentences should be rephrased as follows:

- as well as their right to provide their free and informed consent prior to any ~~intervention in the context of~~ medical interventions.
- When ~~this~~ research affects specific populations, such as indigenous peoples or ethnic minorities (...)

30. It is necessary here to say that limitations to research cannot be arbitrary. That is key. The term arbitrary is a state of the art term in law and human rights. There is no risk of misunderstanding. However, it needs to be said.

IV. Obligations

A. Obligation of progressive realization

32. “In principle, any retrogressive measure in relation to the right to benefit from scientific progress should be avoided” should be rephrased as “are contrary to the letter and spirit of the Covenant”. “Should be avoided” is too mild.

Persons with disabilities

41. The following phrasing should be added: “Or because states slow down or block research of therapies”.

Low-income persons, inequality and science

42. Replace “In the last decades, economic inequality has increased leading to extreme inequalities,” with “Economic inequalities undermine the Rule of Law and ...”

43. Eliminate words as follows: “..to translate economic inequality into a ~~kind of~~ biological inequality.”

D. Obligations to respect, protect and fulfil

53. Delete a word as follows: “..such as access to ~~decent~~ work.”

V. In the section title replace “topics” with “issues”.

A. Participation and transparency

57. Replace “which” with “that” as follows: “..not subject to interests ~~which~~ that are not scientific..”

B. Participation and the precautionary principle

Any precautionary measure should be compatible with existing proportional, non-discriminatory jurisprudence, such as that of WTO, consistent with comparable measures already in place, and anchored to an examination of benefits and costs of action and inaction. Further, the applications of the principle should be subject to review as scientific knowledge progresses and evidence cumulates. The mention of the necessary “precautionary principle” might be “balanced” with the mention of the “innovation principle” already present in other documents such as the EU 9th framework program Horizon Europe.

Precaution should of course be exercised in dealing with the freedom of research. Given the historical experience and evidence (from Galileo to contemporary research on psychedelics) of high risks and dangers in prohibiting or limiting scientific research, it should be “precautionary” not to prohibit scientific research unless there is evidence showing that the costs to humans, animals, and the environment outweigh the benefits of freedom of research. But that can only be ascertained after research and trials.

Following a recent report on improving public understanding of risk, we argue that governments “should open up to the idea that citizens have a right to engage in science and evidence-informed debates and decisions. There is a tension between opening pathways to community engagement, citizens’ participation and deliberation and how the inputs of participatory-deliberative activities are integrated into final decisions. It would send the wrong signal if citizens are involved in these activities for its own sake. At the same time, research on participatory and deliberative approaches has exposed different sources of bias which cannot substitute for formal decision-making and representative democracy. However, the potential influence and power of these biases can, to a large degree, be mitigated by an appropriate design of participations programs..” (Atomium European Institute-Capur: Improving Society’s Management of Risks: A Statement of Principles, 2020¹)

Paragraphs 60 and 61 could be amended as follows:

60. In the sentence “when an action or policy may lead to morally unacceptable harm to the public” remove any mention to morality. The text should thus read: “may lead to unacceptable harm”.

61. “Thus, in these controversial cases, participation and transparency become crucial because the risks and potentials of some technical advances or some scientific research should be made public in order that society, through an informed, transparent and participatory process, can decide whether or not the risks are acceptable.”

¹www.researchgate.net/publication/339128403_Improving_Society's_Management_of_Risks_-_A_Statement_of_Principles_Collaboration_to_explore_new_avenues_to_improve_public_understanding_and_management_of_risk_CAPUR

Rephrase as such: “Thus, in these controversial cases, participation and transparency become crucial because the risks and potentials of some technical advances or some scientific researches should be made public to allow society, through an informed, transparent and participatory process, to discuss costs and benefits and be aware of and accept risks.”

C. Privatization of scientific research and IP

65. Rephrase the sentence “If prices are fixed very high,” with “If prices are fixed too high”

66. Before the last sentence, insert: “ States should also consider whether tools other than IP, such as antitrust law or prize systems, could provide alternate means for promoting innovation while advancing ESCR.”

Local and traditional knowledge. Indigenous peoples and science

67. Modify as follows: Local, traditional and indigenous knowledge, especially regarding nature, species (flora/fauna) and their properties, **including their medicinal, cultural, and spiritual benefits**, has an important role to play in the scientific global dialogue and development. Science should incorporate all valuable inputs, including from indigenous and local knowledge systems.

68. At the end, add the sentence: “States should adopt access and benefit-sharing policies to address and protect traditional knowledge associated with genetic resources.”

E. Controlled substances and science

Modify the paragraphs as follows:

69. Scientific research is hampered for some substances as they fall under the international drug control regime, especially those in Schedule I of the 1961 Single Convention, which are classified as harmful for health and having no scientific or medical value. However, there is evidence that supports that there are medical uses for many of these substances, or that they are not as harmful as claimed when they were placed under this regime for public order-related reasons. This is the case of derivatives of opioids (for pain management and opioid maintenance treatment), cannabis (for the case of treatment resistance epilepsy and potentially other indications), psilocybin (for depression and end-of-life anxiety), ibogaine (for opioid use disorder) and MDMA (used in psychotherapy for post-traumatic stress disorder) to the extent of the available scientific evidence. Moreover, the Expert Committee on Drug Dependence (ECDD) of the WHO has recently recommended to de-classify cannabis from the List IV of the 1961 Convention, recognizing the medicinal uses and benefits that this substance holds.

70. States Parties should harmonize the fulfillment of their obligations under the international drug control regime with their obligations to respect, protect and fulfill all ESCR and specifically, the right to participate in scientific progress and its benefits, through a permanent revision of its policies in relation to controlled substances. States should develop processes for periodically re-evaluating their classifications of controlled substances to harmonize them with the most current scientific evidence available. Prohibition of research in those substances or to access them are in principle restrictions to the right so benefit from scientific development and its applications and should meet the requirements of article 4 of the Covenant.

F. Science and right to food

This section should mention GMOs and their potential in terms of the right to food or access to, ditto for all new breeding techniques that are being employed in several member states.

G. Risks and promises of the so-called 4th industrial revolution This is a very new term that needs some explaining. At a minimum, the reader should be informed about what the first three revolutions were.

75. “Technological change is now so intense and rapid that we might be living a fourth industrial revolution” could be changed into “Technological change is now so intense and rapid that we might be entering a “fourth industrial revolution”, after the agricultural, industrial and informational revolutions”

To further address possible developments of the so-called 4th industrial revolution, attention should be given to biomedical experimentations that uses non-human sentient being (and the respect of their wellbeing) to the extent that, due to the lack of alternative methodologies, this turns out to be necessary for the biomedical knowledge increase and for the human health improvement

In the field of agriculture, all scientific researches and their relative applications, which have as their purpose food safety and the well-being of **humans**, with particular attention to research and applications that aim to eradicate all malnutrition, should be allowed, as long as they are performed in compliance with biosphere and human and animal health.

VII. National implementation of the right

A human right to science

89. Rephrase the paragraph as follows:

This set of rights, entitlements, liberties, duties or obligations related to science, analyzed in this General Comment, might be brought ~~ing~~ together in a single broad concept named “the human right to science”, in the same way that, for example, “the human right to health” encompasses a **broad** set of rights and freedoms **affecting human wealth and well-being**. This approach and name has already been adopted by the Special Rapporteur on Cultural Rights, by UNESCO, by some international conferences and summits and by some important scientific organizations and publications.

This paragraph really belongs to the introduction. It should be paragraph 5 of the document. It is also essential this paragraph stays in the final version of the general comment as it allows the GC to connect to existing doctrine and literature. It also helps diffusing awareness amongst those who are not specialists of human rights of the least known human rights.

As the example in is paragraph says, the Committee already uses the label “right to health” to bundle together several rights. It does so even though the label “right to health” can be misleading, since it is often wrongly understood as a “right to be healthy”. Therefore, whatever perplexities the committee might have about using the label “right to science” should not stand in the way of adopting the label to help promoting the set of rights it encompasses to the wider public.