

February 2016

OHCHR ESCR Bulletin

Update on economic, social and cultural rights

INTRODUCTION

The *OHCHR ESCR Bulletin* aims to share news, activities, key events and new resources relevant to economic, social and cultural rights (ESCR), with a focus on the work of the UN Office of the High Commissioner for Human Rights (OHCHR). The Bulletin is edited by the ESCR team of the Human Rights and Economic and Social Issues Section (HRESIS). For feedback and further information on the work of OHCHR as mentioned in this edition, please send a message to escrbulletin@ohchr.org

The OHCHR ESCR Bulletin contains links and references to non-OHCHR material, websites and other online information. These are provided only as a convenience, and the inclusion of a link or reference does not imply any endorsement by OHCHR.

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HIGHLIGHTS

[First views of CESCR under the Optional Protocol to the ICESCR](#)

On 18 September 2015, the Committee on Economic, Social and Cultural Rights made public its first merits decision under the Optional Protocol to the ICESCR, which entered into force on 5 May 2013. The Committee concluded that Spain violated the right to adequate housing because its courts failed to take all reasonable measures to adequately notify the owner of a mortgaged apartment that a lending institution had filed a mortgage foreclosure claim against her.

- For more information, please see: <http://bit.ly/1PiHDiZ>

Launching of the Online Database, “The Right to Food around the Globe”

In celebration of World Food Day 2015, the UN Food and Agriculture Organization has launched an online database, “The Right to Food around the Globe.”



Through the decades, but even more so over the past few years, a great number of States have been incorporating the right to adequate food into their national constitutions. Also, at global level, the entry into force of new international instruments, such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, has increased the attention given to the implementation and monitoring of this right.

The tool provides a platform where constitutional commitments on the right to adequate food at the national level can be found.

For each FAO Member Nation, you will find references to national constitutional provisions relevant to the realization of the right to adequate food as well as the ratification status of some key international instruments. The tool provides links to relevant instruments, texts of constitutions, as well as informative websites, including FAOLEX, the United Nations Treaty Collection, and the Office of the United Nations High Commissioner for Human Rights.

- To access the new database, please see: <http://bit.ly/1Sl6fVX>

Safe Schools Declaration

The *Safe Schools Declaration* was opened for endorsement in May 2015, during an international conference convened by the Norwegian Ministry of Foreign Affairs. The Declaration sets out a political commitment by states to protect education from attack, including by endorsing and committing to using the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict (previously known as “Lucens Guidelines”) which provide practical guidance to encourage parties to armed conflict to exercise restraint with respect to military use of schools.

By signing onto the Declaration, States commit to:

- 1) **Taking concrete measures to prevent and respond to military use of schools** by armed forces and armed groups, by bringing the Guidelines into domestic policy and operational frameworks as far as possible and appropriate, in line with Security Council resolutions 2143 (2014) and 2225 (2015).
- 2) **Collecting data and facilitating data collection** on attacks on educational facilities, their victims and on military use of schools including through existing monitoring and reporting mechanisms.
- 3) **Strengthening accountability** with respect to attacks on educational facilities, students or educational personnel.

- For further information, please see: <http://bit.ly/1h6Wmxd>

Towards Habitat III

The first UN global summit after the adoption of the Sustainable Development Goals, Habitat III aims to set a new urban agenda. The meeting will take place in Quito, Ecuador in October 2016. OHCHR is advocating for the integration of human rights as one of the main pillars of urbanization. On 3 December, on the occasion of, the International Day of Persons with Disabilities, the UN Housing Rights Programme (a joint OHCHR/UN-Habitat programme) launched a publication on “*The Right to Adequate Housing for Persons with Disabilities Living in Cities.*”

- To access the publication, please see: <http://bit.ly/1Qqjk5p>
- To access the previous publication, "Accessibility of Housing: A Handbook of Inclusive Affordable Housing Solutions for Persons with Disabilities and Older Persons," please visit: <http://bit.ly/1ooafP8>

In her 2015 report to the General Assembly (A/70/270), the Rapporteur underlines that the right to adequate housing must be at the core of the new urban agenda.

- For further information on the work of the Special Rapporteur, please see: <http://bit.ly/1anOzfH>



[Recognition of the 'Human Right to Sanitation' as a Distinct Right by the United Nations General Assembly](#)

In the UN General Assembly resolution, adopted by consensus on 17 December 2015, Member States recognized that 'the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, and socially and culturally acceptable and that provides privacy and ensures dignity.'

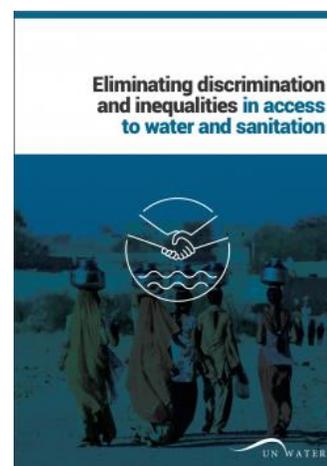
The United Nations Special Rapporteur on the human right to water and sanitation, Léo Heller, and the Chair of the UN Committee on Economic, Social and Cultural Rights, Waleed Sadi, warmly welcomed the explicit recognition of the human right to sanitation as an interlinked but distinct right from the human right to safe drinking water by the UN General Assembly.

- To view the full article, please see: <http://ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=16903&LangID=E>

[Discrimination in water and sanitation policy brief](#)

The UN-Water Policy Brief on "Eliminating Discrimination and Inequalities in Access to Water and Sanitation" is intended to provide guidance to countries and development assistance to address the needs of groups and individuals particularly disadvantaged in access to water and sanitation services. Coordinated by OHCHR, with contributions from across UN-Water's nearly 70 Member and Partner organizations, the policy brief underscores the obligations of states and the role of other non-state actors and reflects on monitoring progress as well as the efficiency of programs and policies.

This publication was launched in New York on 27 October 2015 during an event hosted by the Permanent Missions of Finland and Viet Nam to the United Nations on the occasion of the 70th session of the General Assembly. On 4 November 2016, OHCHR delivered a key address to the SWA (Sanitation and Water for All) Partnership Meeting in The Hague, Netherlands. This was the occasion for a second discussion on the policy brief, with the participation of various state and non-state actors.



- For more information, please visit: <http://www.unwater.org/publications/publications-detail/en/c/340177/>

COUNTRY ENGAGEMENT

Thailand: Natural Heritage Decision Deferred to Address Human Rights Issues

In 2015, Thailand applied for the UNESCO world heritage recognition for Kaen Krachan Forest Complex, which covers a national park where Karen indigenous people live and a Karen land rights activist disappeared in 2014. OHCHR Regional Office for South-East Asia had submitted to the UNESCO Natural Heritage Committee a brief outlining the human rights concerns of the Karen Population in the Kaeng Krachan National Park, following which the decision on the application has been deferred to 2016. The Regional Office is working with the Government to address the human rights concerns of the Karen population living in Kaen Krachang Forest Complex.

- For further updates, see <http://bangkok.ohchr.org/>

Guatemala: Right to Work, Including the Right of Everyone to the Enjoyment of Just and Favourable Conditions of Work

On 7 January, the Ministry of Labour and Social Welfare officially launched the Protocol on procedures for the Labour Inspectorate, including guidelines on the verification of agricultural workers' rights, realized with OHCHR-Guatemala's technical assistance and having a human rights focus and methodology. This crucial protocol – since agriculture is of paramount importance in the country and violations of workers' rights remain widespread – marks the end of a three year-long process which began in 2012. The first stage of the process was the establishment of a joint OHCHR Guatemala-Labour Inspectorate which monitored visits to a number of monoculture plantations throughout the country. Labour authorities now have a stronger mechanism to enforce labour and human rights law

- Link to the Ministry of Labour and Social Welfare's webpage: <http://bit.ly/1NxGJee>

Ukraine: OHCHR Ukraine Working on Social and Economic Rights with Humanitarian Community

The UN Human Rights Monitoring Mission in Ukraine (HRMMU)/OHCHR has monitored the impact of restrictions placed by the Government of Ukraine on freedom of movement of civilians living on each side of the contact line. This is a crucial concern because it affects the access of Ukrainian citizens living in the areas controlled by the armed groups to banking services and social and pension payments.

On 22-24 December 2015, the OHCHR/HRMMU represented the Protection Cluster in an inter-agency checkpoint assessment mission to identify the challenges civilians face while crossing the contact line. The purpose was for health, water, mine action and human rights/protection actors to visit the transport corridors in Donetsk region in order to come up with coordinated response and common advocacy efforts for change.

HRMMU focused on the procedures applied for crossing of people who may be in more vulnerable positions: older persons, families with small children, persons with disabilities, unaccompanied children, released detainees, and people without documents. Following the mission, OHCHR/HRMMU initiated a meeting with the humanitarian colleagues in the Protection Cluster and its three sub-clusters on Child Protection, Mine Action and Gender Based Violence.

- Link to the HRMMU public reports: <http://bit.ly/1OMG24N>
- Link to the Humanitarian response website: <http://bit.ly/1OMGaBo>

Chile: Regional Office for South America delivers Training on the right to adequate housing in Chile

On 26 November 2015, the OHCHR Regional Office for South America based in Santiago, Chile, delivered training on the content of the right to adequate housing for Chilean public servants in charge of housing and urban planning agencies. The training included a discussion on international standards on the right to adequate housing, the Chilean legal regulation on the matter, as well as the recommendations made to Chile in the UPR and by human rights treaty bodies.

- For further information (in Spanish), please see: <http://bit.ly/1Pms8YA>

Nepal: Workshop on caste-based discrimination brings together key stakeholders

On 15 December OHCHR (Indigenous People and Minorities Section, Asia Pacific Section and Regional Office for South-East Asia), together with the Office of the UN Resident Coordinator and Humanitarian Coordinator, conducted a technical workshop in Kathmandu. Thirty representatives from national human rights institutions and civil society organizations working on caste-based discrimination participated. The workshop discussed key challenges and strategies concerning the humanitarian response (in the context of earthquake recovery and relief efforts) and monitoring of caste-based discrimination cases, with a strong focus on the impact on the enjoyment of ESCR for affected communities. The practical recommendations originating from the one-day event included the need to strengthen local capacity on the collection of disaggregated data in order to address the specific violations of ESCR and vulnerabilities connected with caste-based discrimination.



EVENTS

Forced evictions and Women's rights to housing, land and property

On 27 August 2015, OHCHR, ESCR-Net and the Spanish Cooperation Agency organized a panel discussion on Women's rights to housing, land and property in Montevideo, Uruguay. Participants included high level representatives of Spain and Uruguay, Ms. Heisoon Shin from CESCR and representatives of civil society organizations. During this event, the Spanish version of the forced eviction video produced by OHCHR was aired for the first time.

<https://www.youtube.com/watch?v=Ce01seedgbo>



Human Rights Month in UN-Habitat

During the month of December, UN-Habitat organized a number of human rights activities including training sessions on the Human Rights-Based Approach to sustainable urban development, Cross-Cutting Lab (advice on the integration of human rights in specific portfolios), Brown Bag on Human Rights in Cities. On 10 December, a discussion on forced evictions was organized where OHCHR's video was screened.

<https://www.youtube.com/watch?v=1SDUu9f2L0k>

Expert Consultation on Homelessness

The United Nations Housing Rights Programme (jointly run by UN-Habitat and OHCHR) convened an expert consultation on homelessness on 16 and 17 November 2015 in Geneva. The meeting aimed at developing a position and advocacy messages in regard to various forms of homelessness in urbanization processes, including within the context of the SDGs and the upcoming Habitat III conference.

FORTHCOMING EVENTS

2016 Summer School in Human Rights Litigation

Open Society Justice Initiative is calling for applications for their **2016 Summer School in Human Rights Litigation**, to be held at the Central European University in Budapest from 11 to 15 July 2016. The summer school, now in its fifth year, is for human rights activists and litigators who want to develop the skills they need to win cases before the UN treaty bodies, or regional human rights courts.

The summer school provides a unique opportunity for human rights professionals to build on their experience and to develop their skills to successfully bring cases to the regional human rights systems and the UN treaty bodies, and to use those cases to achieve practical change. The curriculum will combine presentations, case studies, exercises, and discussion groups with preparatory work and further reading to ensure optimal benefit for those attending the course. Participants will be invited to provide information on cases they are working on and those concrete examples will help shape discussion.



- For more information, please visit: <http://bit.ly/osf.to/20qD5fn>

CASES, LEGISLATION & POLICIES

First Decision of the Inter American Court of HR: Violation of the Right to Education under the Protocol of San Salvador

In the *Gonzales Lluy v. Ecuador* case, decided on 1 September 2015, the Inter-American Court of Human considered allegations of multiple human rights violations arising from the infection of a young girl with HIV following a blood transfusion conducted by a private, non-profit blood bank. The decision also includes findings on the State obligation to supervise the activities of private parties, declaring that, in failing to do so, the State party violated the right to right to life and personal integrity with regard to health. It also found that lack of adequate health care violated the rights to life and physical integrity of the victim.

Among the violations, the Court considers the discriminatory treatment of the HIV-positive victim in the school system, and found - for the first time - a direct violation of the right to education under the Protocol of San Salvador. The Court relied on the expert testimony of OHCHR and referred to the UNAIDS-OHCHR International Guidelines on HIV/AIDS and Human Rights.

- For further information (in Spanish), please see: http://www.corteidh.or.cr/docs/casos/articulos/seriec_298_esp.pdf

The Fight for a Sound Basic Education in New York

The Campaign arising from the case of *Fiscal Equity (CFE) v. State of New York* on the meaning of the “right to education in practice” continues. This case is significant because of its normative contribution towards further understanding of what constitutes a right to education under the state constitution of New York specifically. It examines the ‘acceptability’ component of the right to education more generally. The case is instructive because it shows the consequent relationship between the government and the court; when government fails to take steps to remedy constitutional violations identified by a court, the court may be required to formulate far-reaching orders with large budgetary implications.

The case highlights the importance of a coalition of education advocacy groups, parent organizations, and community school boards working together towards more equitable funding of New York City schools. The case also demonstrates that a legal victory does not equal “success,” but may provide precious leverage for ongoing advocacy and related litigation efforts.

- For more information on the case summary, please visit: <https://www.escr-net.org/docs/i/400701>

TOOLS / PUBLICATIONS / MULTIMEDIA

New OHCHR publications:

Reflection Guides – Applying A Human Rights Based Approach to Maternal and Child Health

The Office of the High Commissioner for Human Rights, together with UNFPA, WHO, the FXB Center for Health and Human Rights of Harvard University, and the Partnership for Maternal, Newborn and Child Health, has released two Reflection Guides on the application of a human rights-based approach to sexual and reproductive health, maternal health and under-5 child health -- one destined for health policy makers and the other for national human rights institutions.

- To view the Reflection Guides, please see:
http://www.ohchr.org/Documents/Issues/Women/WRGS/Health/RGuide_HealthPolicyMakers.pdf
http://www.ohchr.org/Documents/Issues/Women/WRGS/Health/RGuide_NHRInsts.pdf
- For more information about the Reflection Guides, please contact: Lucinda O'Hanlon (lohanlon@ohchr.org).

Handbook for Treaty Body Members

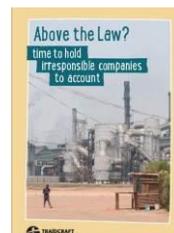
The following handbook prepared by Human Rights Treaties Division (HRTD), has been issued since the beginning of 2016.

- <http://bit.ly/1T6LaU5>

New publications

Anni Belows, Stefanie Lemke, Daniela Núñez and Flavio Valente (eds.), *Gender, Nutrition and the Human Right to Adequate Food –toward an including framework*;
<https://www.routledge.com/products/9780415714457>

“Above the Law? Time to Hold Irresponsible Companies to Account”,
TRAIDCRAFT, available at: <http://bit.ly/1OC9hZJ>



C. Gironde, C. Golay and Peter Messerli (eds.), *Large-Scale Land Acquisitions. Focus on South East Asia*, Brill-Nijhoff, 2015. Chapters available online at poldev.revues.org/2015

Millon Kothari, *The Global Crisis of Displacement and Evictions – A Housing and Land Rights Response*; <http://bit.ly/1OMTkyh>

Inclusive Development and Development Cambodia, *Avoiding Forced Evictions – A Community Guide to Negotiation and Advocacy Guidebook*;
<http://www.inclusivedevelopment.net/new-tool-avoiding-forced-evictions-a-community-guide-to-negotiation-and-advocacy/>



Recent IIED articles on investment treaties and sustainable development:

“Land rights and investment treaties: exploring the interface”

“Democratising international investment law: recent trends and lessons from experience”

“Brining Land rights and investment law: recent trends and lessons from experience”

“Bringing community perspectives to investor-state arbitration: the Pac Rim case”

“Advocacy on investment treaty negotiations: lessons from Malaysian civil society”

“Property in a shrinking planet: fault lines in international human rights and investment law”

“Do investment treaties unduly constrain regulatory space?”

<http://www.iied.org/>

Videos:

OHCHR Stop Forced Evictions videos

English: <https://www.youtube.com/watch?v=1SDUu9f2L0k>

Spanish:

<https://www.youtube.com/watch?v=Ce01seedqbo>

French: <https://www.youtube.com/watch?v=mVnng2lCx60>



Realizing the Human Rights to Water and Sanitation – From Policy to Practice

To see the video, please see: <https://bit.ly/1PccKpu>



**OUR RIGHTS
OUR FREEDOMS
ALWAYS**

Previous issues of the ESCR Bulletin are available at <http://www2.ohchr.org/english/issues/escr/escr-general-info.htm>

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