

# ESCR Bulletin

Update on economic, social and cultural rights

June 2016



The *ESCR Bulletin* of the Office of the High Commissioner for Human Rights (OHCHR) is a platform to share news, activities, key events and new resources relevant to economic, social and cultural rights (ESCR), with a focus on the work of OHCHR. The Bulletin is edited by the ESCR team of the Human Rights and Economic and Social Issues Section. For more information or to submit items for the next edition, please contact [escrbulletin@ohchr.org](mailto:escrbulletin@ohchr.org).



over [150 NGOs](#) for the Council to adopt the resolution and reject thirty proposed amendments that would have undermined the protection of defenders. The resolution serves as valuable guidance on the protection of defenders of ESC rights, and condemns restrictions and attacks against them by both States and business enterprises. It underscores, among other aspects, the importance of the exercise of civil and political rights for the promotion, protection and realisation of ESC rights. On 7 March the International Service for Human Rights held a related [side event](#) with partners, on the protection needs of human rights defenders working on ESC rights. The event highlighted the risks faced by ESC rights defenders, and good practices in furthering their protection, drawing on the recent [report of the Special Rapporteur](#) on this issue.

## Measuring and monitoring the realization of ESC rights

OHCHR has recently developed a [guidance note](#) on a human rights-based approach to data and monitoring, following an expert meeting on this subject organised by OHCHR. The guidance note has been recognized by chief statisticians, UN agencies and civil society organizations as useful in the work on monitoring the Sustainable Development Goals, and deemed consistent with the Fundamental Principles of Statistics. A related report has also been submitted to the Human Rights Council on the [question of the realization in all countries of economic, social and cultural rights](#), addressing

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## HIGHLIGHTS

### Human Rights Council adopts historic resolution on protection of defenders of economic, social and cultural rights

In March, by a resounding vote of 33 Member States for and just 6 against, the UN Human Rights Council adopted a [landmark resolution](#) on the protection of human rights defenders working to promote economic, social and cultural rights. The Norwegian-led resolution was developed in consultation with civil society and sponsored by over 60 States from all regions. This followed a prior call from

national level methodologies to measure the realization of ESC rights. It provides an overview of relevant obligations, the elements required to develop adequate measurement tools and indicators, examples of States' good practices in this regard, and a set of principles for an adequate human rights measurement methodology. The report makes several specific recommendations on a rights-based approach to measurement, data and statistics.

### **Highlighting the importance of ESC rights in the prevention and early warning of conflict**

OHCHR is currently undertaking several activities to highlight the importance of the fulfilment of ESC rights to peace and stability. In a recently published OHCHR [report on early warning and ESC rights](#) the UN High Commissioner for Human Rights considers the links between violations of economic, social and cultural rights and violence, social unrest and conflict, and suggests that an analysis of the enjoyment of the said rights could inform early warning efforts for effective preventive action. OHCHR is hosting a side-event at the 32<sup>nd</sup> session of the Human Rights Council on 29 June (detailed below), and has developed a [new webpage on ESC rights and early warning](#) to provide further information on this issue.

### **CESCR adopts General Comment 22 on the right to sexual and reproductive health and 23 on the right to just and favorable conditions of work**

In March during its 57<sup>th</sup> session, the Committee on Economic, Social and Cultural Rights (CESCR) adopted General Comment 22 on the right to sexual and reproductive health (article 12), and General Comment 23 on just and favourable conditions of work (article 7). In General Comment 22 the Committee highlights, inter alia, the numerous legal, procedural, practical and social barriers faced in accessing sexual and reproductive health care and information, and the resulting human rights violations. The full text is available [here](#). In General Comment 23 on just and favourable conditions of work, the Committee regrets the erosion of and failure to realize workers' rights worldwide, even in times of economic growth, and the persistence of discrimination and inequalities in working conditions. It emphasizes that the minimum criteria for

remuneration are fair wages; equal remuneration for work of equal value; and to provide a decent living for workers and their families. The full text is available [here](#).

### **CEDAW General Recommendation No. 34 on the Rights of Rural Women**

General Recommendation No. 34 on the Rights of Rural Women has been adopted by the UN Committee on the Elimination of Discrimination against Women (CEDAW Committee). Focusing on article 14 of the Convention, the General Recommendation recognizes that rural women continue to face systematic barriers to the enjoyment of their human rights and that in many cases conditions have deteriorated. It contains progressive provisions, with an emphasis on rural women's rights to land and natural resources. The full text is available [here](#).

### **Championing the health and human rights of women, teens and children**



During the 69th session of the World Health Assembly in May, the World Health Organization and OHCHR announced the establishment of a high-level working group of global champions on the health and human rights of women, children and adolescents. The working group has a year-long mandate, in which it aims to generate high-level support for human rights as called for under the Global Strategy on Women's, Children's and Adolescents' Health. Bridging the divide between public health and human rights is essential to respond to the call of the Sustainable Development Goals to leave no one behind, to address discrimination and inequality, and to ensure healthy lives for all. The Deputy High Commissioner for Human Rights said the working group "marks a seismic shift and will generate high-level political commitment for the health and human rights

of women, children and adolescents everywhere – even in the toughest of places.” Further information is available [here](#).

### **Working Group on the Rights of Peasants: Progress at Third Session, 17-20 May**

The open-ended intergovernmental working group on a UN Declaration on the rights of peasants and other people working in rural areas held its third session from 17 to 20 May. The working group made considerable progress, in spite of some on-going reservations on the relevance of adopting such an instrument. Participants agreed on their shared concern about the situation of peasants and other people working in rural areas, and on the need to improve the protection of their human rights. They engaged in a fruitful discussion on the proposed draft Declaration. The active participation of civil society organizations and the quality of their interventions were noted by several delegations. Further information on this session of the Working Group is available [here](#).

### **Advancing human rights through urbanization processes**



Urbanization is one of the most defining global trends of the 21st century, yet too often it goes hand in hand with more people living in inadequate conditions, and greater disparities, inequalities and discrimination. OHCHR has recently developed key messages, available on its [new webpage](#) on this issue, outlining how urbanization processes that respect and promote human rights can instead be a positive force for the majority of the world’s population. OHCHR has been advocating for such an approach in the lead-up to the UN Conference on Housing and Sustainable Urban Development, ‘Habitat III’, taking place in Quito from 17–20 October. For example, OHCHR participated in related key events in Prague, on [addressing housing affordability issues in the UNECE Region](#), and in Barcelona in thematic sessions on the [right to housing](#)

[and social production of the habitat](#) and on [homelessness](#). Subsequently on 3-4 May OHCHR convened an Expert Group Meeting in New York on Human Rights and the New Urban Agenda, the outcomes of which served as an input to the zero draft of the Quito document.

### **Ending forced evictions**

A [new OHCHR online resource page on forced evictions](#) is now available. It gives information as well as tools and solutions to end the violations faced by millions each year.



### **UN Political Declaration on AIDS agreed to fast-track the end of the epidemic by 2030**

A High Level Meeting on Ending AIDS took place at the General Assembly on 8-10 June, leading to agreement on an historic agenda to accelerate efforts towards ending the AIDS epidemic by 2030. The Political Declaration, adopted on 8 June, provides a global mandate to fast-track the AIDS response over the next five years through a set of time-bound targets to be met by 2020. On 11 March OHCHR convened a related Human Rights Council panel discussion on the progress in and challenges of addressing human rights issues in the context of ending the AIDS epidemic by 2030. The discussion affirmed that universal health coverage, access to medicines, law and policy reform, and building on successes are essential elements of the response to HIV/AIDS, and endorsed the importance of a human rights-based approach in this effort. The summary report of the panel discussion was conveyed as an input to the GA High-Level Meeting, and is available [here](#).

## **COUNTRY ENGAGEMENT**

### **Guatemala: OHCHR facilitates dialogue on monocultures and ESCR between NHRI, local authorities and communities**

On 4-5 May, OHCHR facilitated a two-day dialogue on the impact of monocultures on ESC rights of mostly Maya indigenous local communities in the northern regions of Alta Verapaz and Petén – where in recent years African palm plantations have undergone



impressive growth amid consistent allegations of human rights abuses, such as the 2015 ecocide of La Pasión river. The two-day dialogue brought together four recently-elected mayors, community leaders, three human rights defenders of the National Human Rights Institution and the special representative of the Alta Verapaz regional government. Commitment on a more regular dialogue was agreed upon by authorities and communities, thereby opening an important space for rights-holders to monitor local authorities' protection of ESCR of communities affected by monoculture plantations. The OHCHR-Guatemala report on the La Pasión river contamination case is available [here](#).

### **First reporting cycle under Protocol of San Salvador**

The Working Group for the Analysis of State Reports under the Protocol of San Salvador (the Inter-American treaty on ESCR) has recently reviewed the initial reports of six countries, including Bolivia, Colombia, Ecuador, Mexico, Paraguay and Uruguay. The review focused on three rights – health, education and social security. To avoid overlaps with reporting before the UN Committee on ESCR, the Working Group has developed a set of indicators for reporting, including on financial information. The reports and reviews can be consulted (in Spanish) at [this link](#).

### **UK: Support for private schools criticized by Committee on the Rights of the Child**

During a review of the United Kingdom's implementation of the Convention on the Rights of the Child on 23<sup>rd</sup> and 24<sup>th</sup> May, the UK's controversial support for commercial, low-cost private schools in developing countries was questioned by the [Committee on the Rights of the Child](#). The UK Department for International

Development's support for the for-profit primary and pre-primary school chain, Bridge International Academies (BIA) was noted as a particular concern. Concerns were also expressed that commercial private schools in developing countries, with the backing of the UK government, are resisting efforts by governments to regulate the sector and put in place minimum standards (e.g. in Kenya). The Committee also asked for clarification on the UK's plan to academise all schools in England. The UK delegation promised to provide a written response.

### **Panama: CESC focused capacity-building workshop of the national mechanism for reporting and follow-up**



From 1-4 June the OHCHR Regional Office for Central America, the United Nations Program for Development and the Ministry of Foreign Affairs of Panama held a workshop on strengthening capacities in human rights, with a focus on both ESC rights and civil and political rights. This was an activity under the project to strengthen the capacities of members of the national mechanism for reporting and follow-up (NMRF) of Panama, which comprises broad ministerial representation. The Deputy Regional Representative of OHCHR highlighted the importance of the workshop as a first step in a new phase of OHCHR's support to Panama for reporting to and following up on the recommendations of international mechanisms of protection.

## **EVENTS**

**Forthcoming side event: Prevention and Early Warning of Conflict – The Role of Economic, Social and Cultural Rights**

OHCHR is hosting a side-event at the 32<sup>nd</sup> session of the Human Rights Council on 29 June, in partnership with Quaker United Nations Office and Friedrich-Ebert-Stiftung, to address "Prevention and Early Warning of Conflict – The Role of Economic, Social and Cultural Rights". The event will take place from 13.00-15.00 in Palais des Nations, Room XXIII. The discussion will explore the links between ESC rights and the prevention of destructive conflict and violence; share experience from Somalia and Kenya on the role of ESC rights in the development of violent conflict; and consider the place of ESC rights in approaches to sustaining peace.

### **Forthcoming day of general discussion: "Children's Rights and the Environment"**



On 23 September the UN Committee on the Rights of the Child will hold a day of general discussion in Geneva on "Children's Rights and the Environment". This will be a public meeting at which all stakeholders, individual experts and children are welcome. The Committee encourages the submission of written contributions, which are to be sent by 31 July. Discussions will focus on promoting understanding of the relationship between children's rights and the environment, identifying what needs to be done for child rights-related laws, policies and practices to take adequate account of environmental issues, and for environment-related laws, policies and practices to be child-sensitive. For more information please see [here](#).

### **Taking Economic and Social Rights Seriously: Human Rights Council side event, 13 June**

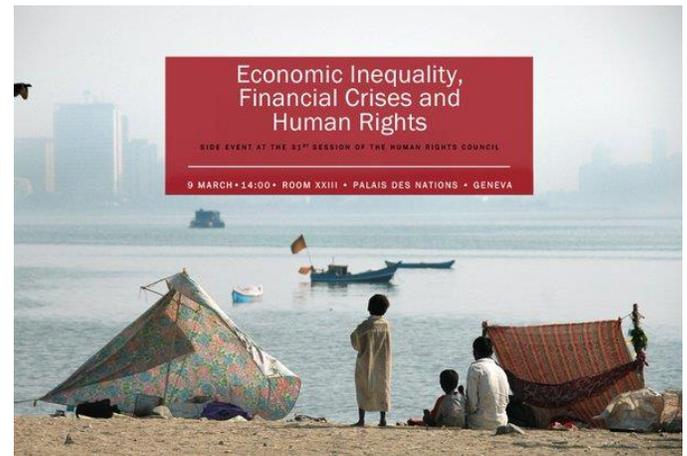
During the 32<sup>nd</sup> session of the Human Rights Council OHCHR and the International

Movement ATD Fourth World co-organized an event on "Taking Economic and Social Rights More Seriously". The event sought to raise awareness on the importance of treating ESC rights as human rights, and identified priorities to ensure that economic and social rights are taken more seriously. The Special Rapporteur on extreme poverty and human rights presented at the event, sharing the core findings of his related [thematic report](#).

### **Committee on the rights of persons with disabilities: Day of General Discussion, 19 April**

A Day of General Discussion Organized by the Committee on the rights of persons with disabilities was held, addressing the right to live independently and be included in the community. The day started with a one hour segment to celebrate the tenth anniversary of the CRPD, which included an opening presentation by OHCHR. The discussion followed a decision by the Committee at its fourteenth session in August-September 2015 to devote one day of its fifteenth session to a general discussion on this matter, in accordance with article 19 of the Convention.

### **Economic Inequality, Financial Crisis and Human Rights, 9 March**



On 9 March, during the 31<sup>st</sup> Session of the Human Rights Council, OHCHR co-organized a side event with ILO, UNRISD and FES on "Economic Inequality, Financial Crisis and Human Rights". The event aimed to raise awareness on the human rights impact of financial and economic crises, and the austerity measures often used to counter them, particularly in relation to marginalised groups. The panellists discussed how policies and

institutions grounded in international human rights law can contribute to reducing inequalities. An OHCHR representative closed the event, highlighting the [thematic report](#) by the High Commissioner on the issue, and calling for accountability in economic policy making. Further information is available [here](#).

## CASES, LEGISLATION & POLICIES

### Views of the CESCR under the Optional Protocol to the ICESCR: Communication No 1/2013, López Rodríguez v. Spain

On 4 March 2016, the Committee on Economic, Social and Cultural Rights adopted its second Views under the Optional Protocol to the ICESCR. The Committee found that the reduction in the amount of the complainant's non-contributory benefit while being in prison did not constitute a violation of article 9 of the Covenant. Nor does it constitute discriminatory treatment contrary to articles 2 and 9 of the Covenant. The Views of the Committee are available [here](#).

### India: Case for eviction of landless poor from government property dismissed by Indian High Court

In India the Madras High Court Bench has ruled that the landless poor cannot be evicted for encroachment of government lands, since it is common that they settle on public property and eventually apply for ownership if the land is not being used by the government. A public interest litigation petition was dismissed on this basis. The petitioner also made a plea to prevent the provision of power supply to the houses of those settling on the land, which was dismissed on the basis that access to electricity should be considered a human right, and part of the right to life guaranteed under the Constitution. More details are available [here](#).

### Court refers to UN Guiding Principles on Business and Human Rights

A recent Inter-American Commission on Human Rights judgment on the case of the *Kaliña and Lokono peoples v. the Republic of Suriname* made reference to the UN Guiding Principles on Business and Human Rights (para. 223; 226), available [here](#). A discussion of this case by Leigh Day, the law firm that won a

settlement from Anglo American for South African mine workers suffering from silicosis, is available [here](#). This follows developments in South Africa, where in 2015 the High Court (Western Cape Division) held that a law firm's design, development and implementation of wage garnishment practices under South African law to collect debts for 45 micro lenders, was void. It found that those practices—while arguably permitted under South African law—neither accorded with the country's Bill of Rights, nor with international human rights standards and customary international law, including the UNGPs.

### South Africa: High Court ruling on rent case upholds tenants' rights

In the case *Young Ming Shan CC v. Chagan NO and Others*, a Gauteng landlord levied electrical service charges on tenants above the actual cost of electricity consumed. Eighty rental tenants brought a complaint to the Rental Housing Tribunal on this basis, which found that the levying of such charges was unfair practice under the Gauteng Unfair Practices Regulations. The Tribunal interdicted the landlord from levying the charges and ordered their repayment. The landlord sought for the High Court to review the Tribunal's ruling to determine if it was fair and just in the circumstances, but the ruling was upheld.

### Human Rights Committee condemns Ireland on the implementation of abortion laws

A woman in Ireland who was forced to choose between carrying her foetus to term, knowing it would not survive, or seeking an abortion abroad was subjected to discrimination and cruel, inhuman or degrading treatment as a result of Ireland's legal prohibition of abortion, [UN experts have found](#).

## PUBLICATIONS & MEDIA

- [Indigenous Peoples, Afro-Descendent Communities, and Natural Resources: Human Rights Protection in the Context of Extraction, Exploitation, and Development Activities](#) - Op-ed by Daniel Cerqueira and Cristina Blanco analysing the recent IACHR report on human rights and extractive and development projects.

- The Right to Education Project has launched a [Guide to Monitoring the Right to Education](#) and the [Right to Education Indicators Selection Tool](#), to help those engaging in education advocacy gather relevant evidence of rights violations. The Project is also developing related [indicators](#) and has launched its website [in Arabic](#).
- The [International Bar Association Practical Guide on Business and Human Rights for Business Lawyers](#) is now available, providing guidance for lawyers on business and human rights, including in relation to implementation of the UN Guiding Principles.
- [Land grabbing and human rights: The involvement of European corporate and financial entities in land grabbing outside the European Union](#) - A study by FIAN and the International Institute of Social Studies, prepared for the European Parliament.
- [Thematic report on the issue of marginality of economic and social rights](#) -by the Special Rapporteur on extreme poverty, Philip Alston
- [Panama Papers, Human Rights and Health: What are the Links?](#)
- [The Universal Periodic Review: A skewed agenda? Trends analysis of the UPR's coverage of economic, social and cultural rights](#) - working paper by the Center for Economic and Social Rights
- A set of reports on [land investments, accountability and the law](#) prepared under a project by [IED Afrique](#), [LRMC](#), [CED](#) and [IIED](#).
- [New volume: The Transformation of Human Rights Fact-Finding](#) - Edited by Philip Alston and Sarah Knuckey, with a chapter by Allison Corkery (CESR) on fact-finding methods to analyse deprivations of ESC rights.
- [Foreign investment, law and sustainable development: A handbook on agriculture and extractive industries, 2nd Ed](#) - An updated edition of this IIED handbook.
- [CRIN study on UN Treaty Monitoring Bodies' jurisprudence on children's rights](#) - An analysis of children's rights and UN human rights mechanisms.
- [Realising ESC rights requires participation and protection of human rights defenders](#) - Article by former UN High Commissioner for Human Rights, Navi Pillay.

- UNRISD has produced a [video playlist](#) on linking social protection and human rights.
- [Video](#) of the Special Rapporteur on the right to adequate housing addressing homelessness.



## Promotion: Forthcoming training courses on economic, social and cultural rights



The Geneva Academy of International Humanitarian Law and Human Rights is hosting a series of training courses on ESC rights, and also offers training on the rights of peasants. These courses provide an opportunity to acquire a solid understanding of ESC rights, and to grasp new developments in the field, including relevant monitoring techniques. For more information see [here](#) or contact [escrtraining@geneva-academy.ch](mailto:escrtraining@geneva-academy.ch).

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