

January 2012

OHCHR ESCR Bulletin

Bi-monthly update on economic, social and cultural rights

INTRODUCTION

Issued every two months, the *OHCHR ESCR Bulletin* aims at sharing news, activities, key events and new resources relevant to economic, social and cultural rights (ESCR), with focus on the work of the UN Office of the High Commissioner for Human Rights (OHCHR). The Bulletin is edited by the Human Rights and Economic and Social Issues Section, Research and Right to Development Division (HRESIS/RRDD). For feedback and further information on the work of OHCHR as mentioned in this volume: 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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"...health care, and education and housing, and access to justice, are not commodities for sale to the few, but rather rights, guaranteed to everyone, everywhere, without discrimination."

Navi Pillay, UN High Commissioner for Human Rights

Read the full message for Human Rights Day 2011:
<http://www.un.org/en/events/humanrightsday/2011/pillay.shtml>



HIGHLIGHTS

Two new ratifications of OP-ICESCR

Bolivia became the sixth country to ratify the OP-ICESCR, on 13 January 2012. OHCHR's National Office for Bolivia, in collaboration with HRESIS, played an important role in the ratification process. In turn, Bosnia and Herzegovina became the seventh country to ratify the Optional Protocol, on 18 January 2012. Only three additional ratifications are needed for its entry into force.

- More information on the status of ratification of the OP-ICESCR is available at: http://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-3-a&chapter=4&lang=en

High Commissioner's report puts the spotlight on gender identity and sexual orientation discrimination

OHCHR has issued the first ever official United Nations report on the human rights situation of lesbian, gay, bisexual and transgender people worldwide. The report was prepared at the request of the Human Rights Council and documents discriminatory laws and practices and acts of violence against individuals based on their sexual orientation and gender identity, including examples of discrimination in the areas of employment, health, education and welfare benefits. Its findings and recommendations will be considered at a panel at the Human Rights Council on 7 March 2012.

- For the UN News Centre article, see: <http://www.un.org/apps/news/story.asp?NewsID=40743>
- The full report is available at: http://www2.ohchr.org/english/bodies/hrcouncil/docs/19session/A.HRC.19.41_English.pdf
- For further information on OHCHR's work in relation to sexual orientation and gender identity: <http://www.ohchr.org/EN/Issues/Discrimination/Pages/LGBT.aspx>

Updated UN Practitioner's Portal now online

The updated UN Practitioner's Portal on Human Rights-Based Approaches to programming (HRBA Portal) was launched on the occasion of Human Rights Day, 10 December 2011. The United Nations has accumulated a vast body of knowledge and experience in mainstreaming human rights into its work; the HRBA Portal collects and makes it accessible to practitioners through a single entry point. Key features of the HRBA Portal include more than 400 knowledge products, searchable by topic, region, language, and resource type, as well as information about how the United Nations mainstreams human rights-based approaches into its work.

- The portal can be accessed at: <http://hrbaportal.org/>

Interpreting the Guiding Principles on Business and Human Rights

OHCHR has released a new publication on business and human rights, "The Corporate Responsibility to Respect Human Rights: An Interpretive Guide". This guide is designed to support the effective implementation of the Guiding Principles on Business and Human Rights. It focuses on the Guiding Principles that address the corporate responsibility to respect human rights and was developed in collaboration with the former Special Representative of the Secretary-General, Professor John Ruggie.

- The guide can be downloaded at: <http://www.ohchr.org/Documents/Issues/Business/RtRInterpretativeGuide.pdf>

ACTIVITIES IN THE FIELD

OHCHR conducts training on ESCR in Uganda

From 9th to 10th November 2011, the OHCHR Kitgum office conducted a training course on economic, social and cultural rights monitoring and advocacy for 40 civil society organisations (CSO). The CSOs were provided with information on general human rights principles, economic, social and cultural rights as well as relevant national and international laws and norms.



Focus on the right to adequate housing in Georgia



On 28th and 29th November 2011, in Batumi, OHCHR conducted a workshop for state institutions, local authorities, the Office of the Public Defender and human rights organisations on the right to adequate housing. The Office also held two information sessions on 1st and 2nd December 2011 in Tbilisi for international presences and the media. Despite its importance for the country, the right to adequate housing does not feature prominently in law and policy. These events provided an opportunity to discuss this human right among various stakeholders from

the international and the national perspective and beyond its application in the area of internally displaced persons.

OHCHR reports on caste discrimination in Nepal



On 14 December 2011, OHCHR Nepal launched a report entitled “Opening the Door to Equality: Access to Justice for Dalits in Nepal”, which was followed by a regional symposium on the issue of caste-based discrimination. The report emphasises that effective access to justice (which is a continuing challenge for Dalits in Nepal) can aid poverty reduction strategies by, for example, providing redress to poverty caused by crime and an inability to assert land rights.

- The report is available at:

http://nepal.ohchr.org/en/resources/Documents/English/reports/HCR/2011_12_07_Opening_the_Door_to_Equality_E.pdf

- For more information, see:

<http://www.ohchr.org/EN/NewsEvents/Pages/OpeningTheDoorToEquality.aspx>

Experts meet in Mozambique to discuss implementation of human rights

The High Commissioner’s Regional Representative for Southern Africa organised an expert seminar on economic, social and cultural rights in Maputo, Mozambique from 5th to 7th December 2011. The meeting was opened by the Minister of Justice of Mozambique. Twenty-two participants from governments, national human rights institutions, NGOs and academia joined

OHCHR colleagues to discuss the main challenges to the implementation of economic, social and cultural rights in the sub-region. At the end of the seminar, the participants formulated recommendations for relevant actors on how to enhance the protection and promotion of economic, social and cultural rights in the sub-region.

Supporting human rights education in Colombia

With OHCHR's support, Colombia's Ministry of Education has made substantial progress in implementing the "EduRights" programme, which makes human rights education mandatory in elementary and secondary educational institutions. With the aim of reaching at least 35 education secretariats at department and municipal level, the Ministry of Education and OHCHR established a strategic alliance to train 150 teachers from 3 provinces. The Departments of Meta, Chocó and Santander are currently benefitting from the programme; its implementation will continue throughout this year and be expanded to other regions of Colombia.



Special Rapporteur on Extreme Poverty visits Timor Leste



The Special Rapporteur on Extreme Poverty and Human Rights, Magdalena Sepúlveda Carmona, conducted a mission to Timor-Leste at the invitation of the Government from 13th to 18th November 2011. She visited several districts and met with victims of eviction and with people living in poor housing conditions, as well as government officials and CSOs. The Special Rapporteur highlighted the commitment of the government to eradicating poverty, but noted the rising inequality in living standards between urban and rural areas. She called for meaningful participation for all, particularly rural populations, in the development

process and for increased budgetary allocations for social services and human development.

- For a more detailed report on the Special Rapporteur's remarks, see: <http://www.un.org/apps/news/story.asp?NewsID=40437&Cr=timor&Cr1=>

EVENTS

RECENT EVENTS

OHCHR in conference to highlight "land-grabbing"

The National Coordination of Farming Organizations in Mali and the international farmers' movement Via Campesina organised the first international conference of farmers against land grabbing from 17th to 19th November 2011, in Mali. The conference brought together small-scale farmers, pastoralists and indigenous peoples from all over the world and concluded with the creation of an international alliance to combat the practice. OHCHR participated in the conference, sharing its analysis of the impact of land management on human rights and outlining

the UN human rights system. The Special Rapporteur on the right to food also sent a statement and shared his views.

- For more information on the conference, see: <http://viacampesina.org/>

Special Rapporteur's call on World Toilet Day: access to toilets is a human right

On the occasion of World Toilet Day, 19th November 2011, Catarina de Albuquerque, the Special Rapporteur on the Human Right to Safe Drinking Water and Sanitation, appealed to states to increase the resources allocated to sanitation, to ensure the more efficient use of existing resources and to begin to treat adequate access to toilets as a human right which fundamentally influences the enjoyment of other rights.

- Additional information is available at:
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=11616&LangID=E>

UPCOMING EVENTS

Teaching the litigation of economic, social and cultural rights

Harvard University's Global School on Judicial Enforcement of Economic, Social and Cultural Rights is offering a course on the litigation of health rights. It will last one week and is due to begin in June 2012 in Boston, Massachusetts.

- More information on the course can be found at:
<http://www.harvardfxbcenter.org/fxb-files/documents/Health%20Rights%20Litigation%20Course.pdf>

CASES, LEGISLATION & POLICIES

Kenyan High Court applies international human rights law in landmark ruling

The judgment of Kenya's High Court, issued on 16 November 2011, in *Osman v The Minister of State for Provincial Administration and Internal Security and Others* acknowledged the "fundamental interdependence" of civil and political rights and economic and social rights, and the justiciability of the latter. In finding that the eviction of the petitioners from state land - without the provision of alternative accommodation - was unlawful, the court based its decision partly on the applicable provisions of the ICESCR, the ICCPR and the Universal Declaration of Human Rights. It also referred to the positions developed by the Committee on Economic, Social and Cultural Rights and the Human Rights Committee on the prohibition of forced eviction.

- The full judgment is available at:
http://www.escr-net.org/usr_doc/Garissa_eviction_case.pdf

South African courts rule on housing rights

The South African courts have recently issued three important decisions on the right to housing.

- In the *Blue Moonlight* case, the City of Johannesburg's housing policy was ruled by the Constitutional Court to be unconstitutional in that it excludes people evicted by a private landowner, as opposed to those relocated by the City, from its temporary housing programme. The case concerned an application by a corporation to evict 86 people who had lived on its property for several years and were currently occupying it without the owner's agreement. The eviction order granted by the Supreme Court of Appeal in a previous hearing was confirmed and

the City was ordered to provide the residents with temporary accommodation in a location as near as possible to their present residence.

- The judgment can be read at:
<http://41.208.61.234/uhtbin/cgiirsi/20111201122725/SIRSI/0/520/J-CCT37-11>

○ In the *Phoko* case, the Constitutional Court ordered the Ekurhuleni Metropolitan Municipality to provide the residents of Bapsfontein, an informal settlement (who had been evicted and moved to a temporary settlement) with land and adequate basic services within the immediate vicinity of their former homes. The municipality had unlawfully evicted the residents from their homes in Bapsfontein, citing a law which permits evacuations in emergencies.

- The judgment can be read at: <http://www.saflii.org/za/cases/ZACC/2011/34.pdf>

○ On 12 December 2011, in *uMngeni Municipality v Dlamini and others*, the Pietermaritzburg High Court ordered the municipality to provide land, water, sanitation and temporary housing to 47 families living in the Tumbleweed informal settlement in KwaZulu-Natal Province. Following the municipality's application for permission to evict the residents in order to make way for a school, the order in favour of the residents was issued with both parties' consent.

- More detailed information on the case can be found at:
http://www.seri-sa.org/index.php?option=com_content&view=article&id=33:umngeni-municipality-v-mafuludi-dlamini-and-others&catid=12&Itemid=32

Malawi passes inheritance law

In November 2011, Malawi's parliament passed the Deceased Estates Act (No. 14 of 2011) which recognises and protects the right of a widow and children to inherit from the estate of the deceased husband and father. Before the change in the law, it was common for widowed women to be relieved of the marital assets by their husbands' relatives. If effectively implemented, this law will now protect the widow's right to keep her home and household goods and effects and to inherit from her husband's estate.

- The Deceased Estates Act is available at:
http://www.malawilii.org/files/mw/legislation/act/2011/14/deceased_estates_wills_inheritance_and_protectio_15745.pdf

U.S. Supreme Court to rule on corporate liability for violations of international law

In the case of *Kiobel and others v Royal Dutch Petroleum and others*, the United States Supreme Court will decide whether corporations are excluded from liability for violations of international law such as torture, extrajudicial executions or other crimes against humanity under the Alien Tort Claims Act. This case was first filed in 2002 by twelve Nigerian plaintiffs who alleged that Royal Dutch Petroleum aided and abetted the human rights violations committed against them by the Abacha dictatorship in the Ogoni region of the Niger Delta in Nigeria between 1992 and 1995. Oral arguments in the case, in which the U.S. government has intervened and filed a brief as a friend of the court, will be heard on 28 February 2012.

- The petitioners' brief can be found at:
<http://www.business-humanrights.org/media/documents/kiobel-brief-for-petitioners-14-dec-2011.pdf>
- The brief filed by the United States is available at:
<http://www.business-humanrights.org/media/documents/kiobel-amicus-brief-us-govt-21-dec-2011.pdf>

TOOLS / PUBLICATIONS / MULTIMEDIA

[New publication from OHCHR: "International Legal Protection of Human Rights in Armed Conflict"](#)

This publication provides a thorough legal analysis as well as guidance to State authorities, human rights and humanitarian actors and others on the application of international human rights law and international humanitarian law for the protection of persons in armed conflict. The analysis also discusses the application of economic, social and cultural rights in such contexts.

- The publication can be found on OHCHR's website:
<http://www.ohchr.org/EN/PublicationsResources/Pages/SpecialIssues.aspx>

[FAO annual report focuses on international food price volatility](#)

This year's report is entitled "the State of Food Insecurity in the World 2011: How does international price volatility affect domestic economies and food security?" Some of its key messages are that small import-dependent countries, especially in Africa, were deeply affected by the food crisis of 2006-2008 and the ongoing economic crisis; high and volatile food prices are likely to continue; high food prices worsen food insecurity in the short term; and safety nets are crucial for alleviating food insecurity in the short term, as well as for providing a foundation for long-term development.

- The report can be downloaded at: <http://www.fao.org/docrep/014/i2330e/i2330e.pdf>

[WHO launches project to support mental health](#)

As part of its commemoration of Human Rights Day, WHO launched the "QualityRights Project - Act, Unite and Empower for Better Mental Health" which aims to tackle the widespread human rights violations experienced by people with mental health conditions in both the health care and community contexts. The project provides support to countries to improve the quality of care and respect for human rights in mental health and social care services.

- To learn more about the WHO QualityRights Project, see:
http://www.who.int/mental_health/policy/quality_rights/en/index.html

[Other Publications/ Reports](#)

- OECD, Divided We Stand: Why Inequality Keeps Rising, 2011:
<http://www.oecd-ilibrary.org/docserver/download/fulltext/8111111e.pdf?expires=1326720146&id=id&accname=ocid195767&checksum=EFDF1FF093FD1D427871C66BABE13393>
- Amnesty International Netherlands, Haki Zetu handbooks on ESCR, housing, food and water and sanitation has now been translated into Portuguese and French:
<http://www.amnesty.nl/publications-et-documents-telecharger>
<http://www.amnesty.nl/publications-and-downloads-other-languages>
- Centre for Women's Global Leadership, Rutgers University, Macroeconomics and the Human Rights to Water and Sanitation, November 2011:
<http://cwgl.rutgers.edu/globalcenter/publications/Rights%20to%20Water%20and%20Sanitation.pdf>

- The Inter-American Commission on Human Rights Report, “The Labor, Education and Resources of Women: The Road to Equality in Guaranteeing Economic, Social and Cultural Rights”: <http://www.cidh.oas.org/pdf%20files/womendesc2011.pdf>
- National Law Center on Homelessness & Poverty published a report on the criminalisation of homelessness. Criminalizing Crisis: The Criminalization of Homelessness in U.S. Cities, November 2011: <http://www.nlchp.org/content/pubs/11.14.11%20Criminalization%20Report%20&%20Advocacy%20Manual,%20FINAL1.pdf>
- Inter-american Association for Environmental Defense, Principal Human Rights Impacts of Climate Change in Latin America: [http://www.aida-americas.org/sites/default/files/The%20Human%20Rights%20Impacts%20of%20Climate%20Change%20in%20the%20Americas%20\(complete%20report\).pdf_0.pdf](http://www.aida-americas.org/sites/default/files/The%20Human%20Rights%20Impacts%20of%20Climate%20Change%20in%20the%20Americas%20(complete%20report).pdf_0.pdf)
- François-Xavier Bagnoud Center for Health and Human Rights, Harvard University, Issue 13.2 of Health and Human Rights: <http://hhrijournal.org/index.php/hhr>
- Right to Education Project, At What Age...are school-children employed, married and taken to court? Trends over time, 2011: <http://www.right-to-education.org/node/53>
- Equality and Human Rights Commission, Close to home: An inquiry into older people and human rights in home care, 2011: <http://www.equalityhumanrights.com/legal-and-policy/inquiries-and-assessments/inquiry-into-home-care-of-older-people/close-to-home-report/>
- Ekta Parishad and Ekta Europe, Report from the International mobilisation conference on The Right to Land and Livelihood, Geneva, 12-13 September 2011: http://ektaeurope.org/wp-content/uploads/2011/12/Ekta_rapport_angl_OK.pdf
- ESCR-Net, New Factsheet: A Bottom-Up Approach to Righting Financial Regulation (Dec. 2011): http://www.escr-net.org/actions/actions_show.htm?doc_id=1625844
- Christophe Golay, Droit à l'alimentation et accès à la justice: <http://www.bruylant.be/st/en/fiche.php?id=14062>
- Olivier De Schutter (Special Rapporteur on the Right to Food) and Kaitlin Y. Cordes, Accounting for Hunger: The Right to Food in the Era of Globalisation, 2011. An abstract of the book is available at: http://www.srfood.org/images/stories/pdf/otherdocuments/20111611_accounting_for_hunger.pdf
- Rebecca J. Cook, Structures of Discrimination: https://papers.ssrn.com/sol3/Data_Integrity_Notice.cfm?abid=1960188

Multimedia

- **OHCHR Web Stories:**
 - “For children on the streets there are no soft pillows”: <http://www.ohchr.org/EN/NewsEvents/Pages/Forchildrenonthestreetsarenosoftpillows.aspx>

○ “Putting people at the centre of development”:
<http://www.ohchr.org/EN/NewsEvents/Pages/PeopleAtTheCentre.aspx>

● **OHCHR Advocacy:**

With a view to raising awareness about the United Nations human rights programme among civil society actors, the Civil Society Section in OHCHR has put together a series of short videos with introductions to human rights, the UN Human Rights Programme, Treaty Bodies and the Human Rights Council:

- What is a Human Right? - <http://goo.gl/ewPHP>
- What is the Human Rights Council? - <http://goo.gl/Q6u6x>
- What is a Human Rights Treaty Body? - <http://goo.gl/5qmti>

- **A map** showing types of accreditation of National Human Rights Institutions by the International Coordinating Committee of National Institutions is now available at:
http://www.ohchr.org/Documents/Issues/HRIndicators/NHRI_Map.pdf

Other sources:

- **Forced sterilization:** See the Campaign to Stop Torture in Health Care:
<http://www.stoptortureinhealthcare.org/forced-sterilization>
- **Campaign to lift the prohibition on abortion in Nicaragua:** Amnesty International Campaign Film, “End the total ban on abortion in Nicaragua”: <http://youtu.be/hIWQPBIb10I>
- **Documentaries made available free online by National Economic and Social Rights Initiative:**
 - “More than A Roof”, Documentary following Raquel Rolnik, the Special Rapporteur on the Right to Adequate Housing, on her first official mission to the United States in 2009:
<http://morethanarooftomovement.org/multimedia/the-film-online/>
 - “Coming Home: The Dry Storm”: One community’s efforts to promote public housing:
<http://cominghomethedrystorm.org/2011/12/09/now-online-2/>
 - “A Clear View”: Three women’s dialogue on public housing:
<http://restorehousingrights.org/drpop/>



Previous issues of the ESCR Bulletin are available at

<http://www2.ohchr.org/english/issues/escr/escr-general-info.htm>

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