

September 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 a 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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"In many European States, governments have embarked on austerity programmes to stabilize their economies. In this context, mounting social tensions in countries especially affected by the economic crisis show the dangers which can be associated with curtailing economic, social and cultural rights. It is thus critical that cuts in public spending do not negatively impact the enjoyment of human rights, and the needs of the poorest and most vulnerable."



Navi Pillay, UN High Commissioner for Human Rights

Full speech at the 21st session Human Rights Council, Geneva, 10 September 2012: <http://bit.ly/PhJuaB>

HIGHLIGHTS

[OHCHR at the 6th World Urban Forum](#)

The 6th World Urban Forum organized by UN-Habitat took place in Naples, Italy from 2 to 6 September. This bi-annual meeting discusses with all stakeholders the challenges posed by urbanization. OHCHR's Director of the Research and Right to development Division, Marcia V.J. Kran, intervened to reaffirm that successful urbanization can be achieved by putting human rights at the centre of all development processes. OHCHR also organized a networking event entitled "*Improving urban development and security of tenure through human rights*". The event gathered experts from various field to discuss the use of human rights framework by urban planners and decision-makers. Finally, OHCHR co-organized with UN-Habitat an expert meeting on eviction impact assessments methodologies.



- Video clip on the statement by Marcia V.J. (starting at minute 15): <http://bit.ly/S8IFx5>

[Pillay calls for a human rights based approach to reduce maternal mortality](#)

At the September session of the Human Rights Council, the High Commissioner presented her report containing technical guidance on the application of a human rights based approach to the implementation of policies and programmes for the reduction of preventable maternal mortality and morbidity. Following the policy cycle of planning, budgeting, implementation, monitoring and accountability, and touching also on issues of international cooperation and assistance, the guidance is a tool for designing policies on sexual and reproductive health in line with human rights obligations. The guidance has benefitted from contributions from human rights and public health experts, including those within UN agencies, Government, civil society, and academia.

- The report is available in all five languages at: <http://bit.ly/NmHKf4>.

[OHCHR Booklet on the rights of lesbian, gay, bisexual and transgender \(LGBT\) people](#)

In September 2012, OHCHR released a 60-page booklet that examines the source and scope of State obligations under international human rights law to protect the human rights of lesbian, gay, bisexual and transgender (LGBT) people. The publication carries the title "Born Free and Equal" -- inspired by the opening words of Article 1 of the Universal Declaration of Human Rights. It sets out five core areas where State action is urgently required – from protecting people from homophobic violence, to preventing torture, decriminalizing homosexuality, prohibiting discrimination, and safeguarding freedom of expression, association and peaceful assembly for all LGBT people.

- The booklet is available at: <http://bit.ly/PAYNet>

[Women and the right to adequate housing](#)

Building on the work and consultations carried out by the mandate of the Special Rapporteur on adequate housing since 2002, this publication identifies the specific challenges, discrimination and biased attitudes faced by women in relation to adequate housing. Moreover, the publication also considers issues such as inheritance, forced evictions, domestic violence, HIV-AIDS and the financial crisis through a substantive equality lens and suggests ways to move forward on an issue that affects millions of women in developing and developed countries.

- The publication is available at: <http://bit.ly/QSZRtW>

[New OHCHR's website on ESCRs](#)

OHCHR's website on Economic, Social and Cultural Rights has been fundamentally renovated. The new site serves as a portal for information on ESCR, including on the main ESCR concepts, back numbers of OHCHR ESCR bulletin, and relevant international standards and monitoring bodies

- Visit the new site: <http://www.ohchr.org/EN/Issues/ESCR/Pages/ESCRIndex.aspx>

ACTIVITIES IN THE FIELD



[Bolivia: Development of ESCR Indicators](#)

Early this year, OHCHR-Bolivia, with the HQ and OHCHR-Mexico, established a strategic partnership with the Ministry of Justice and the National Institute of Statistics of Bolivia for the joint development of human rights indicators, based on the methodology developed by OHCHR with the treaty bodies. As a first step, the work is being focused on six prioritized rights: the rights to adequate food, education, health, work, adequate housing and the right of women to a life free from violence. At

the end of September 2012, OHCHR-Bolivia, with the support of OHCHR-Mexico, will organize follow up activities to review the first draft of the indicators with the Ministry of Justice, the National Institute of Statistics and the technical committees which developed the first draft.

[Argentina: OHCHR's workshop on indigenous peoples rights](#)

On 23 and 24 July, OHCHR Regional Office for South America facilitated a workshop, titled: *"The rights of indigenous peoples at the universal and national level"* in the province of Tucuman, Argentina. The event, jointly organized with the Ombudsman Office, was attended by more than 90 indigenous leaders from various ethnic groups who live in the northern and central provinces of Argentina.



- For more information, please visit: <http://bit.ly/PAs356>

[Brazil: OHCHR's workshop on the universal human rights system](#)

On 17 and 18 July OHCHR Regional Office for South America held a workshop for the State Council of Human Rights of the Secretariat for Social Welfare and Human Rights (SEASDH) of Rio de Janeiro. The training focused on UN mechanisms for the protection of human rights and the two international covenants, on civil and political rights, and on economic, social and cultural rights. More than 40 civil servants and civil society representatives participated. The event was held in collaboration with the SEASDH and the State Council. Its aim was to promote the exchange of experiences among participants and sharpen an analysis of human rights issues from an international perspective.



- For more information, please visit: <http://bit.ly/QoP5JM>

[Haiti: Civil society advocates for a rights-based budgeting](#)

On 28 August 2012, representatives of four civil society organizations trained on rights based budgeting by the human rights section of MINUSTAH met with the President of the Senatorial Commission for Economy, Finances and Budget, in Port-au-Prince (West Department) and advocated for the allocation of funds in the 2012-2013 draft national budget. Their advocacy was based on the priorities underpinned by economic and social rights identified in the assessment report (cahier des charges) a document that was drafted by the civil society. They further referred to a document of July 23, 2012 prepared by the Departmental Direction of the Minister of Planning and Foreign Cooperation that ensures that priorities identified in the

civil society's report are included into Haiti's Strategic Development Plan as well as in the National Investment Budget Proposal for 2012-2013.

Paraguay follows SR's recommendation on income tax

Paraguay has adopted a personal income tax. The establishment of such an income tax was one of the main recommendations of the Special Rapporteur on poverty and human rights during her visit to the country in December 2011. The Special Rapporteur called for the entry into force of the income tax law, as well as for greater solidarity on the part of the population in moving towards a more equal society (Report: A/HRC/20/25/Add.2).

- For more information, please visit: <http://bit.ly/Oa6uKf>

EVENTS

RECENT EVENTS

Human Rights of Older Persons: III Session of the Open Ended Working Group

The third session of the OEWG on the Human Rights of Older Persons took place in New York, from 21 to 24 August 2012. The session had thematic panels on the current international framework and the protection of the rights of older persons, including on age discrimination, autonomy, independent living and health, social security, access to productive resources, abuse, violence and access to justice. OHCHR and UN-DESA served as secretariat for the Working Group. Highlights of the meeting were the increased participation of African and Asian countries and of civil society organizations. The future of the OEWG will be decided in the next sessions of the Third Committee and of the General Assembly.

- Information on the session, including the submission, can be found at <http://bit.ly/Lle5DS>

The third Regional Forum of the Parliamentary Front Against Hunger

On 30-31 August, the Parliamentary Front Against Hunger (FPH) in Latin America and the Caribbean held its third forum in Guatemala. The conclusions of the forum include, among others, commitments to advocate for: laws, budgets, policies for the promotion of the right to food, the ratification of the Optional Protocol to the ICESCR; according primacy to the right to food when access to food is affected by economic activities, natural disasters, and climate change; promoting the Voluntary Guidelines on the responsible governance of tenure of land, forests and fisheries (VGGT) in laws and policies; promoting the collective exercise of the right to food by indigenous and tribal peoples and peasants; supporting the right to water.

- For more information on the FPH, see: <http://bit.ly/SAoKl2> and <http://bit.ly/SAoPvg>

Integrating Guidelines on Land Tenure in the UN human rights system

On 24 September 2012, FIAN International, Switzerland, Brazil, Germany and OHCHR organized a side event at the 21 session of the Human Rights Council on the Voluntary Guidelines on responsible governance of tenure of land, forests and fisheries (VGGT). The VGGT was adopted at the UN Committee on the World Food Security in May 2012 and reflects several key international human rights standards. The panel discussion aimed to raise awareness among the constituencies of the Human Rights Council on the VGGT and explored possibilities of integrating the VGGT into the work of the UN Human Rights System.

FORTHCOMING EVENTS

Jan Satyagraha 2012, March for Justice, India

Starting on 2 October 2012, approximately a 100,000 people in India are expected to march on foot over a month from Gwalior to Delhi, a distance of about 350 km, advocating for their right to land, forests and water, as well as to livelihood, and a life with dignity.

- For more information: <http://bit.ly/QoNVfz>

Forum on Business and Human Rights

The first annual UN Forum on Business and Human Rights will be held on 4-5 December 2012, in Geneva to discuss trends and challenges in the implementation of the "Guiding Principles on Business and Human Rights: Implementing the UN 'Protect, Respect and Remedy' Framework" and to promote multi-stakeholder dialogue and cooperation. The Forum is open to participation by relevant stakeholders, including states, business enterprises, civil society and affected stakeholders. The deadline for registration is 1 November.

- For more information, including on registration, see: <http://bit.ly/xfDD92>

CASES, LEGISLATION & POLICIES

Colombia: Court rules on business responsibilities towards ESCRs

On September 2009, the *Tribunal Contencioso Administrativo del Valle del Cauca* of Colombia confirmed a sentence that finds the private company Empresa de Energía del Pacífico – EPSA- and the public institution, *Corporación Autónoma del Valle del Cauca*, responsible for damages caused to the Afrodescendant communities of Rio Anchicaya in the *Valle del Cauca*. The court determined that the damages were caused in 2001 when the gate-locks of the hydroelectric power plant were opened releasing almost 500.000 M3 of sediments affecting not only the environment but also the enjoyment of the right to food, health, physical integrity and cultural life of the ethnic community. After four years of legal arguments to block the implementation of the sentence, in March 2012, the *Consejo de Estado* decided that the case file should be sent back to the Tribunal for its implementation. If the sentence is fully implemented, it will create a precedent in Colombian jurisprudence regarding the responsibilities of private companies in relation to environmental and other economic, social and cultural rights. Currently the Office in Colombia is following the developments on the case in the judicial system and providing technical advice to the litigating communities.

German constitutional court: right to minimum existence for asylum seekers

On 18 July 2012, the German federal constitutional court delivered its judgment on the right to minimum existence for asylum seekers and other migrants. In 1993, a law (Asylum Seekers Benefit Act) was introduced that regulated the social benefits for asylum seekers and other migrants. Since then, the amount has never been increased. In 2012 it was about 40% (55% in the case of social benefits for children) lower than social benefits received by German citizens. The court ruled that the Asylum Seekers Benefit Act was incompatible with the fundamental right to a minimum existence, protected as human dignity in Article 1 sec. 1 in conjunction with Article 20 sec. 1 of the Basic Law (the German constitution). The legislature is obliged to enact new provisions in the area of application of the Asylum Seekers Benefits Act which serve to secure a dignified minimum existence.

- For more information, please visit: <http://bit.ly/NKUrvK>.

TOOLS / PUBLICATIONS / MULTIMEDIA

Poverty as an obstacle to access justice

The briefing of Avocat Sans Frontiere, “The obstacles people living in extreme poverty face in accessing justice”, analyses the vicious cycle that prevents people who live in poverty from accessing justice which accentuates their condition. Using a human rights-based approach, the briefing explores the interdependence of human rights as related to access to justice and various economic and social rights.

- The briefing is available at: <http://bit.ly/QWyJds>

Book: Equal Access to Health Care

A new book, “The Human Right to Equal Access to Health Care” published as part of the School of Human Research Series, Volume 53, May 2012, by Maite San Giorgi analyses the justiciability of the human right to equal access to health care. It examines cases concerning unequal access to health care by judicial and quasi-judicial human rights bodies, and distills the elements that play a role in the assessment of such cases.

- For more information, please visit: <http://bit.ly/RYSptR>.

Issues Brief by John G. Ruggie on the Kiobel case

The former UN Special Representative on business & human rights, Professor John Ruggie, addresses in an issue brief, Shell's arguments challenging the extraterritorial application of the Alien Tort Statute (ATS) in *Kiobel v. Royal Dutch Petroleum (Shell)*, the currently pending US Supreme Court case. The Supreme Court will hear oral arguments on 1 October.

- The brief can be found at: <http://bit.ly/OSYnfT>.

Book: “Confronting Homelessness”

“Confronting Homelessness: Poverty, Politics, and the Failure of Social Policy” (2012) by David Wagner, professor of social work and sociology at the University of Southern Maine, offers a major reconsideration of homelessness in the US, casting a critical eye on society's response to crises of inequality and stratification. Incorporating local studies into a national narrative, Wagner probes how homelessness shifted from being the subject of a politically charged controversy over poverty and social class to a functional question of social-service delivery. At the heart of his analysis is a provocative insight into why we accept highly symbolic policies that dampen public outrage, but fail to address the fundamental structural problems that would allow real change.

- For more information, please visit: <http://bit.ly/N013Z4>

ESCR-Net: report on strategies for social rights litigation in Africa

This report is based on a workshop held in Johannesburg, South Africa in March 2012, organized by ESCR-Net SERI, the NGO Coalition for the OP-ICESCR and the Norwegian Centre on Human Rights.

- For more information, please visit <http://bit.ly/U3gNRh>

A human rights-based approach to maternal mortality

“Integrating interventions on maternal mortality and morbidity, and HIV: A human rights-based framework and approach”, September 2012, is a new paper available on the Health and Human Rights Journal edited by Susana Fried, Brianna Harrison, Kelly Starcevich, Corinne Whitaker and Tiana O'Konek.

- You can find it at <http://bit.ly/REzJDQ>

[World Health Organization launches “QualityRights”](#)

On 28 June 2012 the World Health Organization (WHO) launched the QualityRights Tool Kit. The event outlined WHO’s global campaign to improve care and halt human rights violations against people with mental health conditions. Speakers with a wide range of experience – from the world of Hollywood to the urban slums of India – provided personal insights and perspectives on the dire situation faced by millions of people with mental health conditions around the world, and on how WHO QualityRights breaks new ground in the drive to raise human rights and quality standards in mental health and social care. The Tool Kit, a landmark document of the WHO’s QualityRights Project, sets out key quality and human rights standards that need to be met in all mental health and social care facilities: It also provides guidance on how to conduct a comprehensive assessment, report findings and make recommendations to end violations and improve quality and human rights in facilities. Visit the QualityRights launch website to learn more about the Tool Kit: <http://bit.ly/OsbnOw>.

- To download the WHO QualityRights tool Kit: <http://bit.ly/O8o9ly>

[The draft African Commission Principles available on line](#)

The draft African Commission principles and guidelines are now available on the updated African commission website at <http://bit.ly/Qfi8iL>

[Right to Food and Nutrition Watch 2012: WHO DECIDES ABOUT GLOBAL FOOD AND NUTRITION?](#)

The fifth issue of the Right to Food and Nutrition Watch, an annual report published by a network of civil society organizations and social movements working on the right to food, focuses on the global governance of food and nutrition, and calls for a turnaround in global decision-making on food and nutrition.

- Full text of the journal in English, French and Spanish, and a video clip of its launch: <http://www.rfn-watch.org/>

Multimedia

- FIAN A new film, "Coffee to go - with the taste of eviction" at <http://bit.ly/Nc5sg6>
- A Path to Dignity: The Power of Human Rights Education. A documentary film on the positive impact of human rights education in people’s lives is launched by OHCHR together with two civil society organizations at <http://bit.ly/P4KX1p>



Previous issues of the ESCR Bulletin are available at

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

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