

# OHCHR ESCR Bulletin

## - Public Edition -

*Bi-monthly update on economic, social and cultural rights*

Volume 2, December 2010



## 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). Your feedback is most welcome. Please send an email to: [escrbulletin@ohchr.org](mailto:escrbulletin@ohchr.org)

*\*The selection of information and the summary of each item do not necessarily reflect the views of the OHCHR or of the United Nations.*

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## HIGHLIGHTS

### [Posted for comments: Draft Guiding Principles for business and human rights](#)

On 22 November the Special Representative of the Secretary-General (SRSG) for Business and Human Rights, John Ruggie, issued the draft “Guiding Principles for Implementation of the UN ‘Protect, Respect and Remedy’ Framework”. The Framework, welcomed by the Human Rights Council in 2008, elaborates and clarifies the respective roles and responsibilities of States and business with regard to business-related human rights impacts, including those specific to economic, social and cultural rights. The Council also asked the SRSG to “operationalize” the Framework, which is the purpose of the Guiding Principles. All interested stakeholders can submit their views until 31 January. A final text will be presented to the Council in June 2011.

- The draft document is currently posted on the SRSG’s online forum, <http://www.srsconsultation.org>

### [New: Open-ended working group on the human rights of older persons](#)

On 19 November, the General Assembly established an open-ended working group to strengthen the protection of the human rights of older persons. States will consider the

existing international human rights framework, its gaps and the feasibility of further instruments and measures. OHCHR welcomes this development as more attention must be paid to the dire situation of older men and women around the world, particularly in relation to rights such as social security, health and adequate standard of living. OHCHR will support the proceedings of the working group during its sessions in New York in 2011.

- The resolution can be accessed:
- <http://daccess-dds-ny.un.org/doc/UNDOC/LTD/N10/641/58/PDF/N1064158.pdf?OpenElement>

## **ACTIVITIES IN THE FIELD**

### **Guatemala: Launch of Right to Food Fact Sheet, Guatemala City, 14 October 2010**

On 14 October, as part of its activities to promote the right to adequate food, OHCHR-Guatemala launched the Fact Sheet on the Right to Adequate Food (OHCHR-FAO joint publication). The publication was launched as part of FAO's World Food Day event, "the impact of climate change on food security in Guatemala", a forum organized by FAO, OHCHR and government institutions.

- For more information on the right to food or the fact sheet: Asako Hattori (HRESIS/RRDD), [ahattori@ohchr.org](mailto:ahattori@ohchr.org)

## **RECENT EVENTS**

### **CESCR Day of general discussion on the right to sexual and reproductive health, 15 November 2010**

The Committee on Economic, Social and Cultural Rights devoted one day of its 45<sup>th</sup> session to a general discussion to lay the basis for a future general comment on sexual and reproductive health. The Committee has identified the right to sexual and reproductive health as an integral component of article 12 of the Covenant (ICESCR) on the right to health and considers that its General Comment No. 14 as well as its jurisprudence provide guidance on the implementation of the right to sexual and reproductive health. However the Committee considers the complexity of the right as well as the failure to realize it, as observed worldwide, warrant a specific general comment. A wide range of expert panellists offered evidence-based information and substantive contributions on the links between several human rights and sexual and reproductive health. The Committee aims to consider a first draft general comment in 2011.

- For more information on the discussion and panellist's contributions see: <http://www2.ohchr.org/english/bodies/cescr/discussion15112010.htm>

### **Expert consultation on access to medicines as an element of the right to health, Geneva, 15 October 2010**

This was a consultation mandated by the Human Rights Council to exchange views on the realization of access to medicines as a fundamental element of the right to the highest attainable standard of physical and mental health. The consultation heard from a range of experts including the Special Rapporteur on the right to health, WHO, the Global Fund to Fight AIDS, Tuberculosis and Malaria, Médecins sans Frontières and other NGOs. While

some panellists pointed to figures showing lack of access to essential medicines, particularly for certain diseases or population groups, others focused on issues of availability of safe, affordable, of appropriate quality medicines. WHO highlighted that access to medicines is a key indicator of the government's commitment to the right to health and called for strengthened legal and policy frameworks, including at constitutional level. The Special Rapporteur will present a report of the consultation in 2011.

- See web story on this event at:  
<http://www.ohchr.org/EN/NewsEvents/Pages/Accessstomedicines.aspx>

### **Consultations on Guiding Principles for business and human rights, Geneva, 11-12 October 2010**

Throughout the process of developing the UN 'Protect, Respect and Remedy' Framework for business and human rights and Guiding Principles, SRSG John Ruggie has consulted comprehensively with a broad range of relevant stakeholders. The SRSG convened a meeting in Geneva on 11-12 October with civil society organizations to hear their views about the framework, and also about follow-up options for the business and human rights agenda beyond the end of the SRSG mandate in June 2011. Participants included representatives of NGOs including those working on the link between ESCR and business, trade unions and national human rights institutions, as well as academics and indigenous peoples' representatives. Similar stakeholder consultations were held with States and business (when?).

- Summaries are available at the SRSG's portal:  
<http://www.business-humanrights.org/SpecialRepPortal/Home>

### **International Resettlement Conference, The Hague, 5-7 October 2010**

OHCHR delivered opening remarks at an international conference on resettlement taking place during the 15th International Metropolis Conference in the Hague, the Netherlands. Participants included a number of representatives of international and regional financial institutions and academics and NGOs. A number of key issues pertaining development-induced resettlements were discussed including forced evictions, the potential negative impact and impoverishment of communities as a consequence of resettlements, the need for impact eviction assessments, adequate relocation plans and/or compensation prior displacements, and the definition and limits of the notion of public interest as a justification for evictions.

- Papers from this event can be found at:  
<http://www.metropolis2010.org/index.php?pid=412>

### **MDG Review Summit adopts human rights friendly Outcome Document**

Human rights figured prominently at the MDG Summit in New York, 20-22 September 2010 and were visibly integrated in the Outcome Document. During the preparations for the Summit, OHCHR embarked on a communications campaign, underscoring that 'Human Rights are Key to achieving the MDGs'. The Summit Outcome Document reflects this core commitment. A number of communications tools were developed, including key messages on MDGs and human rights, public information materials and a new publication on 'Human Rights and the MDGs in Practice: A Review of Country Strategies and Reporting'. The Outcome document should be used by OHCHR as an advocacy tool for human rights

mainstreaming in development, in global policy discussions as well as in the UN's policy dialogues and programming at the country level.

- OHCHR Key Messages on the MDGs:  
[http://www.ohchr.org/Documents/Issues/MDGs/Key\\_messages\\_Human\\_RightsMDGs.pdf](http://www.ohchr.org/Documents/Issues/MDGs/Key_messages_Human_RightsMDGs.pdf)
- MDG Review Summit Outcome Document:  
<http://www.un.org/en/mdg/summit2010/pdf/mdg%20outcome%20document.pdf>

### **Big strides towards migrants' rights**

Currently chaired by the High Commissioner, the Global Migration Group (GMG), a collective of 16 international organizations, has increased awareness of the human rights of migrants, especially those in an irregular situation, among senior government representatives and the public at large in the last quarter of 2010. A landmark joint statement on the human rights of irregular migrants was adopted by the GMG Principals on 30 September, which stresses the international obligation of governments to protect and respect migrants' rights, including economic, social and cultural rights. In her statement in Mexico at the Global Forum on Migration and Development 8 -11 November, the High Commissioner drew attention to the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

- GMG joint statement:  
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10396&LangID=E>
- High Commissioner statement:  
<http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=10521&LangID=E>

## **RESOURCES**

### **TOOLS / PUBLICATIONS**

#### **Two new General Comments: CEDAW on older women and CMW on migrant workers**

On 28 October 2010, the Committee on the Elimination of Discrimination against Women (CEDAW) adopted its General Recommendation No. 27 on "older women and protection of their human rights". Issues related to access to education, social pensions and adequate housing, as well as consent in relation to health or the right to inherit are addressed in this recommendation and compel States parties to address multiple discrimination against older women. On 2 December 2010 the Committee on Migrant Workers adopted its first General Comment on the human rights of migrant domestic workers. Both of these instruments have been largely welcomed by the civil society organizations working on these issues, many of which contributed to their drafting or discussions.

- CEDAW general recommendation No. 27 is available at:  
<http://www2.ohchr.org/english/bodies/cedaw/comments.htm>
- For CMW general comment No. 1 - Background information and documents, please see:  
[http://www2.ohchr.org/english/bodies/cmw/cmw\\_migrant\\_domestic\\_workers.htm](http://www2.ohchr.org/english/bodies/cmw/cmw_migrant_domestic_workers.htm)

#### **UN-IFIs common strategic framework on food security integrates the right to food**

The UN Secretary-General's High-Level Task Force on the Global Food Security Crisis (HLTF) has developed the Updated Comprehensive Framework for Action (UCFA) as a common strategic framework for the UN and the international financial institutions (such as the World Bank and IMF) for their support to countries to address food and nutrition security. OHCHR is a member of the HLTF and has provided substantial input to the UCFA. The UCFA, released in October 2010, integrated the right to food and a human rights-based approach throughout the document, including in 1) strategic entry points, 2) strengthening accountability and 3) cross-cutting issues (e.g. in relation to social protection systems, trade policy, indicators, etc).

- For more information on the HLTF: <http://www.un-foodsecurity.org/>

### **New translations of ESCR Fact Sheets now available online:**

- Right to Adequate Housing (Fact Sheet 21/Rev.1): Arabic and Russian
- Right to Adequate Food (Fact Sheet 34): French
- Right to Water (Fact Sheet 35): Russian

- To order hard copies: [publications@ohchr.org](mailto:publications@ohchr.org)
- Download them at:  
<http://www.ohchr.org/EN/PublicationsResources/Pages/Publications.aspx>

### **Minorities and development, a UNDP Resource Guide and Toolkit**

In partnership with the Independent Expert on Minority Issues, Gay McDougall and OHCHR, UNDP has developed a Resource Guide and Toolkit to clarify the conceptual issues and fundamental principles on the promotion and protection the rights of minorities; the standards to engage them and increase their opportunities for participation and representation in development processes.



- Marginalised Minorities in Development Programming, UNDP, 2010, direct link: <http://hrbaportal.org/wp-content/files/1282077542marginalisedminoritiesindevelopment.pdf>

### **Health System Financing: World Health Report 2010**

Launched on 22 November, the World Health report 2010 issued by WHO focuses on health system financing with the aim of achieving universal coverage. The report provides specific guidance on policy and practices for governments and the donor community, and looks into areas such as efficient and targeted use of resources, or arguments to strengthen investment in health services and facilities. Notably, in her speech launching the report, Dr. Margaret Chan, WHO Director General, noted that: "*Access to basic health care is a fundamental human right, as stated in the WHO Constitution and not just a privilege to be enjoyed in a few wealthy societies.*"

- To download the full report, the executive summary, specific chapters or the background papers see: <http://www.who.int/whr/2010/en/index.html>

### **65th session of the General Assembly: Reports relevant to ESCR**

You can find the documents listed below in all available UN official languages at the online database, searching by symbol numbers: <http://ap.ohchr.org/documents/mainec.aspx>

Mandates and reports	Main focus of the report	Symbol number
Report of the Secretary-General on Follow-up to the Second World Assembly on Ageing: comprehensive overview ( <b>in relation to the rights of older persons</b> )	Chapter VI. "Human rights of older persons" elaborates rights of older persons including ESCR	<b>A/65/157</b>
Report of the Special Rapporteur on the right to <b>food</b>	Main focus: access to land and the right to food. The report discussed access to land and security of tenure and suggests, the strengthening of customary land tenure systems and the reinforcement of tenancy laws could significantly improve the protection of land users and impact positively on the right to food.	<b>A/65/281</b>
Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental <b>health</b>	Main focus: the right to health and international drug control, compulsory treatment for drug dependence and access to controlled medicines	<b>A/65/255</b>
Report of the Independent expert on the issue of human rights obligations related to access to safe <b>drinking water and sanitation</b>	Main focus: the Millennium Development Goals and the right to water and sanitation	<b>A/65/254</b>
Report of the Special Rapporteur on <b>adequate housing</b> as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context	Main focus: migration and the right to adequate housing	<b>A/65/261</b>
Report of the Special Rapporteur on the right to <b>education</b>	Main focus: the right to sexual education	<b>A/65/162</b>
Report of the independent expert on the question of human rights and <b>extreme poverty</b>	Main focus: the importance of social protection measures in achieving Millennium Development Goals (MDGs)	<b>A/65/259</b>

### **Video: "The Shelter Effect"**

'The Shelter Effect', the latest video by the International Federation of the Red Cross and Red Crescents Societies, was presented during the global shelter cluster meeting in early November 2010 in Geneva. Producers saw the over-arching 'umbrella' as a symbol under which a lot of shelter activities and experiences can be shared widely. This is also their first campaign on Facebook.

- The Shelter effect is available at: <http://www.youtube.com/watch?v=Lf2z38u2djA>

### **Briefing paper on the right to education of internally displaced people**

The Internally Displaced Resources Center (IDRC) has released a briefing paper on the right to education. As noted by the publishers," with displacement lasting 20 years on average,

displaced children's education cannot wait until solutions are found. Everyone has the right to education, including IDPs in emergency settings, in protracted displacement, or in the course of finding durable solutions. This paper introduces a series of case studies looking at education for IDPs. It examines the international human rights law framework for guaranteeing education to IDPs, focusing on issues such as non-discrimination and documentation that are particularly likely to arise in this context". A case study on the right to education for internally displaced children in Turkey can be found here.

- To download the paper, see <http://www.internal-displacement.org/>

### **Budget Analysis Project launches two documents**

Queen's University Belfast has released two documents on budget analysis: "Budgeting for Economic and Social Rights: A Human Rights Framework" and "Budget Analysis and Economic and Social Rights: A Review of Selected Case Studies and Guidance". The first one details various analytical frameworks employed by the Committee on Economic, Social and Cultural Rights and others to categorize obligations and to link them to budgetary processes. According to the editors, the second document is a review of existing guidance and case studies on economic and social rights and budget analysis. Amongst other things, the report authors seek to draw out lessons, based on the examples considered, for those seeking to carry out such budget analysis.

- The documents are available at:  
<http://www.law.qub.ac.uk/schools/SchoolofLaw/Research/HumanRightsCentre/ResearchProjects/BudgetAnalysis/Documents/>

## **CASES, LEGISLATION & POLICIES**

### **New decision of the Inter-American Court on Human Rights on indigenous peoples' land**

The Inter-American Court of Human Rights has recently published a decision on indigenous peoples' rights, *Indigenous Community Yakmok Kasek v. Paraguay*, handled on 24 August 2010. Following its previous jurisprudence, the Court declared that failure to reconstitute the ancestral land to an indigenous community amounts to a violation of the right to property. It also found violations of the right to life, including failure to provide access to water, food, medical assistance and education, with the consequence of several deaths in the community. Furthermore, the Court found violations to the rights to personal integrity and legal personality, of the duty to protect children, and of the prohibition of discrimination.

- Full text of the decision (in Spanish only) at:  
<http://www.corteidh.or.cr/casos.cfm?idCaso=342>

### **African Human Rights Case Law Analyzer**

The decisions of the African Commission on Human and Peoples' Rights are now available on-line through an advanced tool. HURIDOCS, and NGO, launched a new online database of jurisprudence of the African Human Rights System, called Case Law Analyzer, providing African human rights decisions in English and French, analysis, links to laws and cases cited, comprehensive key word search and others.

- To access visit: <http://caselaw.ihrda.org>

### **COHRE releases new Housing and ESC Rights Law Quarterly**

The most recent edition of the COHRE Quarterly opens with an article about a groundbreaking decision of the African Commission on Human and Peoples' Rights dealing –for the first time- with human rights abuses in Darfur (*Center for Housing Rights and Evictions v.. Sudan*). The decision also advances jurisprudence on the right to adequate housing, the right to water and sanitation, the right to economic, social and cultural development, and the question of remedies for human rights violations. Another case covered is *Dokic v. Bosnia and Herzegovina* dealing with a housing restitution claim before the European Court of Human Rights in the context of Bosnia and Herzegovina. The Court found a violation of Article 1 of Protocol 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms.

- The complete edition of Housing and ESC Rights Law Quarterly is available at: [http://www.cohre.org/sites/default/files/100930\\_cohre\\_housing\\_and\\_esc\\_rights\\_law\\_quarterly\\_vol\\_7\\_no\\_3\\_sept\\_2010.pdf](http://www.cohre.org/sites/default/files/100930_cohre_housing_and_esc_rights_law_quarterly_vol_7_no_3_sept_2010.pdf)

### **Forced evictions and hate speech as aggravated violations under European Social Charter**

In *Centre on Housing Rights and Evictions (COHRE) v. Italy*, the European Committee of Social Rights established seminal jurisprudence under the Revised European Social Charter by defining and finding an "aggravated violation." The "aggravated violations" were found for both forced evictions (Art. 31.2) and hate speech (Art. 19.1). This holding resulted in the case being expedited and for the Committee of Ministers of the Council of Europe to take strong measures. The Committee also found mass expulsion of migrants to be in violation of the Revised European Social Charter, which should reverberate through Europe and in particular be relevant to France at the moment.

- The full decision can be found at: [http://www.cohre.org/sites/default/files/italy\\_-\\_cohre\\_v\\_italy\\_final\\_decision\\_on\\_the\\_merits\\_2010.pdf](http://www.cohre.org/sites/default/files/italy_-_cohre_v_italy_final_decision_on_the_merits_2010.pdf)

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**Previous issues of the ESCR Bulletin are available from OHCHR Intranet:**  
<http://intranet.ohchr.org/ThematicAreas/ESCR/Pages/OHCHRESCRBulletin.aspx>