

OHCHR ESCR Bulletin

- Public Edition -

Bi-monthly update on economic, social and cultural rights

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INTRODUCTION

The *OHCHR ESCR Bulletin* provides updates on economic, social and cultural rights for OHCHR staff working in the field and at Headquarters. Issued every two months, this Bulletin aims at sharing news, activities, key events and new resources relevant to economic, social and cultural rights (ESCR). It is open for contributions from all parts of the Office, including from colleagues in human rights field presences. The Bulletin is edited by the Human Rights and Economic and Social Issues Section, Research and Right to Development Division (HRESIS/RRDD). Your contributions, submissions and feedback are most welcome. Please send an email to: escrbulletin@ohchr.org

The deadline for submissions of contributions for the next issue is 15 March 2011: Please send us short paragraphs (100 words max.) including, whenever possible, links to reports, web pages, pictures or other materials for downloading.

Note from the editors: As not all contents of the internal version of the Bulletin are public information, we would advise to use the public version of the Bulletin when sharing it with partners outside the UN. The public version of the Bulletin has been issued parallel to the internal version since October 2010.

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HIGHLIGHTS

[European Union ratifies the Convention on the Rights of Persons with Disabilities](#)

On 23 December 2010, the EU ratified the CRPD, becoming the first regional integration organization to join a UN human rights treaty. Interestingly, although all 27 EU members have signed the CRPD, 11 of them have yet to ratify it. The EU ratification (or "confirmation" in the wording of the Convention) is based on article 42 of the CRPD. The ratification of the CRPD by the EU represents a significant commitment to raising awareness on the rights of persons with disabilities, mainstreaming disability rights across all areas of EU competency and taking concrete steps towards ensuring that the rights of persons with disabilities, including their economic, social and cultural rights, are respected, protected and fulfilled.

[United States endorses the Declaration on the Rights of Indigenous Peoples](#)

The United States has endorsed the United Nations Declaration on the Rights of Indigenous Peoples. The United States was one of only four States that voted against the Declaration upon its adoption. The other three States (Australia, Canada and New Zealand) reversed their positions and endorsed the Declaration through formal pronouncements since the General Assembly vote. The United States now joins these other countries in making opposition to the Declaration a thing of the past. The Special Rapporteur on the rights of indigenous peoples, James Anaya, has welcomed this positive step.

- To consult the press release by the Special Rapporteur, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10606&LangID=E>

ACTIVITIES IN THE FIELD

[Nepal: OHCHR promotes dialogue on the protection of ESCR in the new constitution](#)

On 20 December 2010, OHCHR-Nepal and the Forum for Human Rights and Democracy (FOHRID), a local NGO, jointly organised an interaction programme in Kathmandu with a view towards stepping up advocacy for the protection of economic, social and cultural rights (ESCR) in the new constitution. OHCHR-Nepal delivered a presentation on “Key gaps and challenges in relation to ESCR protection in the proposed draft provisions of the Committee on Fundamental Rights and Directive Principles of the Constituent Assembly (CA)” and shared best practices contained in constitutions from other countries. Participants included CA members, lawyers, human rights defenders and representatives from National Human Rights Institutions.



[Papua New Guinea: Human Rights Film Festival](#)

To commemorate International Human Rights Day, OHCHR, along with other UN agencies and partners, organized a Human Rights Film Festival in Papua New Guinea from 10 to 12 December 2010. ESCR issues featured prominently in the programme, including a thematic focus on the right to housing. The film festival is a good example of a creative human rights advocacy initiative, with a potential to reach a broad audience.

- The programme of the Festival can be consulted here: http://www.pngports.com.pg/Docs/HFFF_program.pdf

[Timor-Leste: Parliamentary Session on ESCR](#)

On International Human Rights Day, the National Parliament in Timor-Leste held an extraordinary session on Economic, Social and Cultural Rights. All speakers noted the importance of furthering ESCR, achievements made and challenges that lie ahead in a country where over 50% of the population lives under the poverty line. During the session, the President of the Republic delivered six human rights awards to individuals and organizations for their work in promoting ESCR. All Parliamentarians were provided with

OHCHR/UNMIT materials on ESCR. Timor-Leste is taking steps to improve the realization of ESCR through setting of national priorities. The National Strategic Development Plan is being finalised after consultations in all sub-districts.

United Kingdom: Development of a Human Rights Measurement Framework (HRMF)

The Human Rights Measurement Framework (HRMF) is a system of human rights indicators and measures that is being developed for human rights monitoring (including economic, social, and cultural rights) and reporting purposes in England, Scotland and Wales. The work has been commissioned by the national human rights institutions in Britain and Scotland. Using the OHCHR framework on human rights indicators as a starting point, the project team has developed indicators for nine rights, including the rights to health, education, adequate standard of living, food, adequate housing and water. OHCHR sits as a member of the Advisory Group for the project.

- For the site of the project see: <http://personal.lse.ac.uk/prechr/>
- For more about the OHCHR framework on human rights indicators see: <http://www2.ohchr.org/english/issues/indicators/index.htm>

EVENTS

RECENT EVENTS

Climate Change: UNFCCC Conference of Parties 16, Cancun, Mexico

OHCHR participated at the United Nations Framework Convention on Climate Change (UNFCCC) Conference of Parties (COP16), which took place from 29 November to 10 December 2010. OHCHR delivered statements in two side events on “Displacement and migration: Examples of initiatives and activities to support resilience and adaptation” and on “Improving resilience to protect human health and welfare from the adverse effects of climate change”. Further, OHCHR facilitated with other 14 UN agencies the organization of a third side event on “Inclusion of social dimensions in the development of climate change policies and programmes”. The aim of these side events was to raise awareness among Member States and NGOs on linkages between climate change, displacement and migration, the right to health and the right to food, and social dimensions; and how to integrate these issues better in climate change negotiations, policies and programmes.



- OHCHR Information Note for COP16: <http://www2.ohchr.org/english/issues/climatechange/docs/InfoNoteHRBA.pdf>

Special Rapporteur on the Right to Food visits China

The Special Rapporteur on the right to food, Olivier De Schutter, visited China from 15 to 23 December 2010. The mission was organized following an invitation to the Special

Rapporteur by the Chinese Government, by which the Government fulfilled a commitment stated during its 2009 UPR review to invite a special procedure mandate working on economic, social and cultural rights to visit China in 2010.

- See press release of this event at:
<http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=10612&LangID=E>

First meeting of task force on tuberculosis and human rights

The Stop TB partnership held the first meeting of the Tuberculosis and Human Rights Task Force in Berlin, 9-10 November 2010, jointly organized by WHO-UNAIDS as Secretariat. The task force brings together various stakeholders, including UN agencies, NGOs and organizations of persons affected by TB, with the aim to enhance collaboration and coordination in relation to tuberculosis. The task force will develop a policy paper and will look into most-at-risk population groups, such as persons in detention, persons living with HIV and AIDS, people who use drugs, irregular migrants and multi-drug resistant patients. OHCHR attended this meeting as an observer, and in December 2010 decided to join the Task Force.

The Universal Periodic Review (UPR) and ESCR

The UPR is an interactive and participatory mechanism to review the human rights situations of all the UN Member States. It can be a useful tool to reinforce promotion and protection of ESCRs. During the 9th UPR Session of November 2010, various recommendations, including those on ESCRs, were given to the States under Review. For example, a number of recommendations on ESCR were made to the United States of America – including recommendations to ratify the ICESCR and OP-ICESCR, to expand its social protection coverage, to ensure that migrants enjoy access to health care and decent working conditions, to ensure access to housing by vulnerable groups and promote equal opportunities in education (see

http://lib.ohchr.org/HRBodies/UPR/Documents/session9/US/A_HRC_WG.6_9_L.9_USA.pdf).

Summaries of the interactive dialogues are available in the outcome documents. The 10th UPR Session took place in January 2011.

- All UPR documentation is accessible at:
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/Documentation.aspx>

FORTHCOMING EVENTS

Public consultation on access to cultural heritage as a human right

States, international agencies, intergovernmental organizations, national human rights institutions and non-governmental organizations are invited to attend a public consultation organized by the Independent Expert in the field of cultural rights, Ms. Farida Shaheed, on “Access to cultural heritage as a human right”. The consultation will take place in Palais des Nations, Room XXI, on 10 February 2011. The Independent Expert’s annual report to the Human Rights Council, to be presented in June 2011, will be devoted to the issue of “Access to cultural heritage as a human right”. The consultation will complement the questionnaire on access to cultural heritage sent to all stakeholders, and provide them with an additional opportunity to contribute their views.

- Additional information on the consultation can be found at:
http://www2.ohchr.org/english/issues/cultural_rights/index.htm

[Public consultation on the right to health of older persons](#)

The Special Rapporteur on the right of everyone to the highest attainable standard of physical and mental health, Anand Grover, invites States, relevant United Nations agencies, national human rights institutions and other relevant stakeholders to participate in the public consultation on the right to health of older persons. The objective of this consultation is gathering information and comments for preparation of a report on the realization of the right to health of older persons, including the main existing challenges and best practices.

- See: <http://www2.ohchr.org/english/issues/health/olderpersons/PublicConsultation.htm>

RESOURCES

[Recent FAO Publications on the Right to Food](#)

FAO has recently issued three publications on the right to food. They are: *EXIGIBILIDADE: Mechanisms to claim the human right to adequate food in Brazil*; *Constitutional and Legal Protection of the Right to Food around the World*; and *Responsible Governance of Land Tenure: An Essential Factor for the Realization of the Right to Food (discussion paper)*

- Publications are available at: <http://www.fao.org/righttofood/>

[ILO Report on Global Employment Trends 2011](#)

ILO has recently published its annual report on Global Employment Trends for 2011, incorporating the most recent labour market information available to explore the state of the labour market globally and regionally. Among its main findings, the report points out that unemployment remains high, that a recovery in growth has not translated into a recovery in employment, and that progress in reducing vulnerable employment and working poverty has stagnated or been slow.

- The report is available at: http://www.ilo.org/global/publications/ilo-bookstore/order-online/books/WCMS_150440/lang--en/index.htm

[ESCR-Net Toolkit on the OP-ICESCR](#)

The ESCR-net has made available a *Toolkit for Action on the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*. The toolkit includes four booklets covering general information about the ICESCR, the OP-ICESCR, reasons for ratification and tools for advocacy towards ratification.

- The toolkit is available at: http://www.escr-net.org/resources/resources_show.htm?doc_id=1475393

[OMCT's Website & Library: Protecting ESCR and preventing violence](#)

The World Organization Against Torture (OMCT) has launched a revised version of its ESCR website and library. The library contains a report on OMCT's recent work addressing the economic, social and cultural root causes of violence.

- Link to the website and library: <http://www.omct.org/escr/>
- The report is available at: <http://www.omct.org/escr/reports-and-publications/2010/07/d6146/>

[Two reports on implementation of human rights decisions](#)

INTERIGHTS has recently published its Bulletin, which focuses on the implementation of national and international human rights judgments and decisions across jurisdictions. Contributions include analysis of the implementation of several decisions on ESCR. The Open Society Justice Initiative has also published a report on the same issue, *From Judgment to Justice: Implementing International and Regional Human Rights Decisions*, containing an analysis of challenges and several recommendations to improve the implementation of human rights judgments.

- INTERIGHTS Bulletin 16 vol. 2 is available at:
<http://www.interights.org/view-document/index.htm?id=606>
- The Open Society's report is available at:
http://www.soros.org/initiatives/justice/focus/international_justice/articles_publications/publications/from-judgment-to-justice20101122

[University of Toronto Initiative for Economic and Social Rights](#)

The University of Toronto has just launched a new website – the Toronto Initiative for Economic and Social Rights – which provides a database with quantitative information on the constitutional status of economic and social rights in developing countries. This dataset measures not only the presence or absence of seventeen separate economic and social rights in 123 constitutions in Africa, Latin America, East-Central Europe and Asia, but also their constitutional status – as either justiciable or aspirational. It includes additional data on the constitutional commitment to a free market and ratification of the ICESCR.

- Link to the website: <http://www.tiesr.org/>

CASES, LEGISLATION & POLICIES

[Indian Court finds denial of right to food and children's rights of poor pregnant and lactating women](#)

On 23 December 2010, the Delhi High Court issued an interim order recognizing the injustice embedded in India's Public Distribution Scheme. The case, *Premlata w/o Ram Sagar & Ors. v. Govt. of NCT Delhi*, W.P. Civ. 7687/2010, involves six destitute pregnant and lactating women who reside in a slum of Delhi, and have been denied their constitutional rights to food and reproductive and child health benefits. The decision underlines the connection between nutritional and food security and maternal health, and the need for increased monitoring and oversight of the government's Fair Price Shops. The Court ordered the government to ensure that all aggrieved card holders have their ration cards sorted and reauthorized within 10 days time, and appointed the Assistant Food Commissioner to monitor compliance.

[ECOWAS Court of Justice handles final decision on the right to education](#)

The Community Court of Justice of West African States (ECOWAS) delivered its final judgment in the *SERAP v. Nigeria* case on 30 November 2010. The plaintiffs, based on evidence drawn from a report prepared by a governmental monitoring body, argued that the misuse of funds allocated to education by government authorities infringed the right to education. The Court reaffirmed that the right to education is justiciable under the African Charter on Human and Peoples' Rights, held that diversion of funds allocated to the education sector has a negative impact on the right to education, and ordered the State of

Nigeria to take the necessary steps to face the funding gap due to corruption and thus provide the necessary funds to ensure the implementation of the right to education.

French courts begin to apply the “Enforceable Right to Housing Act”

French administrative courts have recently handled the first decisions regarding the application of the “Enforceable Right to Housing Act” (Loi n°2007-290 du 5 mars 2007 instituant le droit au logement opposable). The law requires government authorities to provide access to housing to disadvantaged groups, and allows right-holders to file complaints in case of failure. On 17 December 2010, the Paris Administrative Court found the Administration responsible for failing to comply with the housing entitlements granted by the law, and ordered compensation to the plaintiffs for that failure.

- Press release of the Paris Administrative Court (in French):
http://paris.tribunal-administratif.fr/ta-cao/media/document/TA_PARIS/dalo_recours_indemnitaires_et_communique.pdf
- Media coverage (in French):
http://www.lemonde.fr/societe/article/2010/12/17/premieres-condamnations-en-vertu-du-droit-au-logement-opposable_1455045_3224.html

