

OHCHR ESCR Bulletin

- Public Edition -

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). Your feedback is most welcome. Please send an email to: 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.

Table of Contents

1. [Highlights](#)
2. [Activities in the field](#)
3. [Events](#)
4. [Tools, publications and multimedia](#)
5. [Cases, legislation & policies](#)

HIGHLIGHTS

[Report on human rights indicators and ESCR: "The science of human dignity"](#)

The High Commissioner's report to ECOSOC this year (E/2011/90) focuses on the use of human rights indicators in the implementation of ESCR. The report 1) describes the notion of human rights indicators, 2) clarifies the legal base for the use of human rights indicators, 3) highlights key methodological considerations, 4) illustrates examples of the use of indicators in human rights assessments, policy making and implementation, human rights monitoring and redress mechanisms in relation to ESCR, and lastly 5) highlights recent practices of the UN human rights mechanisms, such as treaty bodies, special procedures of the Human Rights Council, and the Universal Periodic Review process, in the areas of ESCR.

- Full text of the report:

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

CEDAW issues Views on first maternal mortality case

On 10 August 2011, CEDAW issued a landmark decision for women around the world, with its Views on the case of *Alyne Pimentel v. Brazil* (Communication No. 17/2008) - the first case decided on maternal mortality, concerning the death of an Afro-Brazilian poor woman for lack of adequate maternal health care. The Committee found violations of the rights to health and judicial protection, referring to the State party's obligation to regulate the activities of private health service providers. The Views also include considerations on why lack of access to adequate maternal health services constitutes discrimination against women, and some references to multiple discrimination (gender and race).

Report on preventable maternal mortality and morbidity

The 2011 OHCHR report on preventable maternal mortality and morbidity (A/HRC/18/27) offers a compilation of effective practices to eliminate maternal mortality and morbidity, drawing upon 77 contributions from States and other stakeholders. It identifies the common features of such practices, analyses how they embody a human rights-based approach, and showcases some examples that have been effective in reducing maternal mortality and morbidity. Such examples combine sustained efforts to address the underlying causes of maternal mortality and morbidity while ensuring better access to quality health care and empowering women. This is also the first Human Rights Council report to address unsafe abortion from a human rights perspective. The report will be considered by the Council in September 2011 and at a high level side event co-sponsored by OHCHR.

- The report will be soon available in all UN languages at:
<http://ap.ohchr.org/Documents/gmainec.aspx> (search A/HRC/18/27)
- All contributions to the report are available at:
<http://www2.ohchr.org/english/issues/women/>

Secretary General Report to the GA on the human rights of older persons

The 2011 UN Secretary-General's report on ageing (A/66/173) focuses, for the first time, on the human rights of older persons. The report shows growing international concern for the situation of older men and women particularly in relation to age-related discrimination; violence and abuse; and lack of special measures and protection mechanisms. Drawing from over 75 submissions from states, national human rights institutions, UN and civil society organizations, the report devotes attention to critical ESC rights, such as the right to health, to social security, to work and to an adequate standard of living. It will be considered by the UN General Assembly in October.

- The report is available in all UN languages at:
<http://www.un.org/Docs/journal/asp/ws.asp?m=A/66/173>
- All contributions to the report are available at:
<http://www.ohchr.org/EN/Issues/OlderPersons/Pages/Reports.aspx>

Plenary session of the General Assembly on the right to water and sanitation

The Special Rapporteur on the human right to safe drinking water and sanitation, Ms. Catarina de Albuquerque, participated in a plenary session of the General Assembly on the

right to water and sanitation on 28 July 2011 in New York. Also making statements at the meeting were the President of Bolivia, Evo Morales and the Secretary General, Ban Ki-Moon. The Special Rapporteur emphasized the importance of the GA resolution recognizing the right to water and sanitation and urged all stakeholders to use the human rights framework to ensure access to water and sanitation for all.

- The webcast of the plenary session is available at:
http://www.unmultimedia.org/photo/detail.jsp?app=1&lang=en&id=481/481350&key=14&query=*&lang=en&sf=

[Bolivian legislative assembly ratifies OP-ICESCR](#)

On 26 July 2011, the Bolivian Legislative Assembly passed Law 156, ratifying the ICESCR-Optional Protocol. Bolivia became the second country in Latin-America to ratify such instrument. OHCHR-Bolivia with the support of DESIB/HRESIS advocated for this ratification and implemented various activities with the aim of raising awareness among state authorities and civil society organizations about the Protocol. These activities also included an interactive briefing session with the Assembly's Constitutional Law Committee to discuss implications of the ratification. Deposit of the ratification instrument by the Executive is pending and OHCHR-Bolivia in following up.

[UNICEF Reveals prices it pays drug companies for vaccines](#)

In May 2011, for the first time, the United Nations Children's Fund publicly listed the price it pays for vaccines. The decision is seen as a victory around the world and could lead to cuts in prices for vaccines and lead to a larger policy on publicizing the prices of other goods such as mosquito nets, diagnostic kits, essential medicines and ready-to-eat foods for children. This decision has also brought attention to the companies and bidders about their policies of disclosing pricing information of public health goods.

- For more information: http://www.unicef.org/supply/index_57476.html
- http://www.unicef.org/media/media_58692.html

ACTIVITIES IN THE FIELD

[Regional Offices advocate for the ratification of OP-ICESCR](#)

The **West Africa Regional Office** (WARO) has advocated for the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (OP-ICESCR) through capacity building, awareness-raising events and support to national organizations.

In **Cape Verde** (10 to 13 July), WARO took part on a workshop organized by the National Human Rights Commission (NHRC). The workshop gathered more than thirty participants including representatives of the National Assembly; NHRC and the Ministry of Justice. Through an in-depth analysis of the Covenant and Optional Protocol, the workshop aimed at deepening understanding of importance of their ratification.



Similarly, in **Bamako, Mali**, (27 and 28 July), WARO participated in a high-level seminar on OP ICESCR, organized by Plate-Forme DESC Mali. The seminar was inaugurated by the Minister of Justice and brought together high-ranking representatives of the National Assembly, Ministries, Commission Nationale des Droits de l'Homme, Office of the Ombudsman, judiciary as well as civil society organizations. For two days the participants debated technical aspects of the Protocol and appealed for ratification of this new instrument.



On a similar note, in July, **OHCHR Regional Office for Central America (ROCA)**, with the support of HRESIS, organized several events in **Costa Rica and Panama** to promote the ratification of OP-ICESCR and raise awareness on the justiciability of ESCR. The team included a member of CESCER, and ROCA and HRESIS staff. On 21 July the team

appeared before the International Relations Committee of the National Assembly of Costa Rica, arguing in favor of the ratification of the OP-ICESCR. During 25 and 26 July, two events were held in Panama on the justiciability of ESCR and the OP-ICESCR with the Ministry of Foreign Affairs and the Ombudsman Office.

Mexico: Indicators on the Right to Health

On 28 June 2011, OHCHR Mexico, the National Institute for Statistics and Geography and the National Human Rights Commission launched the book “Indicators on the Right to Health in Mexico”, as part of a joint project initiated in 2007. This publication is the first to present human rights indicators elaborated on the basis of OHCHR’s methodological framework and validated with a wide spectrum of actors including civil society, governmental and academic institutions. The book provides a total of 64 indicators on the right to health, with data from 1990 onwards and disaggregated by federal entity. It presents Mexico’s advances in the guarantee of the right to health during 20 years.

- The publication is available (in Spanish only) at:
http://www.hchr.org.mx/index.php?option=com_content&view=category&layout=blog&id=24&Itemid=24

Nepal: Equal Rights to Sexual Minorities: Right to Citizenship Certificate



Denial of the right to citizenship certificate as third gender has led to lack of enjoyment of economic, social and cultural rights as well as civil and political rights in Nepal. On 7 July, the Durban Review Conference Follow up Committee-Nepal (DRCFC) and OHCHR-Nepal jointly discussed the challenges, lessons learnt and best practices identified in the implementation of the 2007 Supreme Court verdict No. 917 regarding the citizenship certificate to third gender. Representatives of the

government, NHRIs, donor community, UN, media, civil society and gender and sexual minorities participated in the discussion about problems faced by third gender individuals in the process of obtaining citizenship certificate and after the certificate was received.

Screening of video message by the High Commissioner on homophobia was part of the programme. (*DRCFC is a network of marginalized groups, namely, dalit, indigenous peoples, Madheshi, persons with disabilities, religious minorities and gender and sexual minorities*)

Nepal: Working on the right to adequate housing

On 27 and 28 July, taking the opportunity of the presence of Mr. Miloon Kothari, of the non-governmental organization “Housing and Land Rights Network” and former Special Rapporteur on adequate housing, OHCHR interacted with a wide range of stakeholders and national representatives of national institutions, civil society, UN agencies and government officials to explore ways to advance and adjudicate the right to adequate housing and ESCR in Nepal.



Papua New Guinea: Assessing housing rights

Last year, a team from OHCHR conducted an assessment mission to Papua New Guinea (PNG) focusing on the situation of the right to adequate housing and forced evictions in the country. The team visited communities living in informal settlements in Port Moresby, Goroka, Madang and Lae and met with relevant national and international partners. The newly released report of this mission highlights the population's concerns on affordability, security of tenure and housing conditions, especially physical security, as well as issues of forced evictions.

- The report is available on the web site of OHCHR's Regional Office for the Pacific: http://pacific.ohchr.org/docs/PNG_HousingRightsMissionReport2010_July2011.doc

Pacific Regional Office: Information sheet on trade and the right to health

The Regional Office for the Pacific with UNDP Pacific Centre developed an information sheet on Pacific Trade and the Right to Health. This initiative is part of on-going efforts to develop more user-friendly materials to unravel the link between trade and human rights. Through cooperation with WHO and Australian public health academics, the Regional Office distributed the booklets at a regional meeting on Non-Communicable Diseases early August in Tonga.

- The information sheet is available at: <http://pacific.ohchr.org/docs/PacificTradeRightToHealth.pdf>

EVENTS

UPCOMING EVENTS

Panel on right to health of older persons, 16 September 2011

The Human Rights Council requested the Special Rapporteur on the right to health, Mr. Anand Grover, to prepare a thematic study on the realization of the right to health of older persons (HRC/18/37). It also called for a panel discussion to take place during the 18th session of the Council. The debate will contribute to increasing awareness of the existing challenges that older persons face in the exercise of their right to health, and other human

rights closely related to health. It will also provide an opportunity to discuss and identify good practices and possible measures, including technical assistance and capacity building, aimed at the full and effective enjoyment of the right of older persons to the highest attainable standard of physical and mental health.

- For more on the Special Rapporteur on the right to health, see: <http://www2.ohchr.org/english/issues/health/right/index.htm>
- For information human rights of older persons, see: <http://www.ohchr.org/EN/Issues/OlderPersons/Pages/OlderPersonsIndex.aspx>

RECENT EVENTS

Regional Seminar on Strategic Litigation about women's ESCR, Quito

CLADEM, a regional network of women organizations and activists, organized a training workshop on strategic litigation at the national and international level to strengthen the protection of economic, social, cultural and environmental rights of women. A diverse group of 35 women from 13 Latin American and Caribbean countries met for two days to analyze the situation of women in the region, as well as opportunities for legal protection of their ESCR rights. Panels included focus attention on various instruments and mechanisms, including OP-CEDAW, OP-ICESCR and the Inter American System, as well as identification of a common approach to strategizing around justiciability of women's ESCR.

Development of regional food and nutrition security action plan in Caribbean:

The Caribbean Community (CARICOM), assisted by the Food and Agriculture Organization of the United Nations (FAO), has recently adopted a Regional Food and Nutrition Security Policy to ensure safe, adequate, nutritious and affordable food for the region's inhabitants, from a human rights-based approach. Currently, a Regional Food and Nutrition Security Action Plan for 2012 - 2016 is being developed with a view to implementing recently adopted Policy. FAO supported online consultation on the Action Plan with civil society in August 2011.

- See more at: http://www.fao.org/righttofood/news49_en.htm

Combating homelessness through sports

Through the unlikely opportunity of representing their country, the Homeless World Cup uses football as a catalyst for homeless people to rebuild confidence and social relationships and to bring changes in the perception of governments, media and public opinion toward creating better solutions to homelessness around the world. This year's edition is taking place in Paris, France from 21 to 28 August 2011 with 64 national teams. Next editions will be held in Mexico City in 2012 and Poznan in 2013.

- See more at: <http://www.homelessworldcup.org/>

TOOLS / PUBLICATIONS / MULTIMEDIA

[World Report on Disabilities](#)

Launched by WHO and the World Bank in June, the World Report on Disability provides a new analysis of the global situation, based to a large extent on the Convention on the Rights of Persons with Disabilities. The Report suggests that there are more people with disabilities – some 1 billion people or around 15 percent of the world’s population – as opposed to 10 percent as previously thought. It finds that poor people, women and older people are more likely to experience disability. It highlights the fact that an unfriendly environment poses several barriers to the participation of persons with disabilities and leads to negative impact on rights, including poorer health, lower educational achievements, and higher poverty rates. The World Report makes nine recommendations, including improving access to and funding for services, involving persons with disabilities in formulating and implementing policies, laws and services and increasing research and data collection on disability.

- The report is available at:
http://www.who.int/disabilities/world_report/2011/en/index.html

[WHO Referral Abroad Report- Gaza](#)

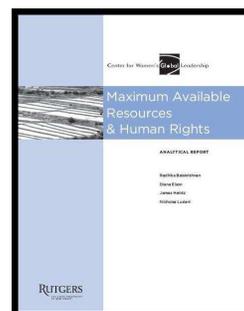
The report addresses the issue of referrals from the Gaza Strip by physicians to hospitals outside of Gaza in order to access necessary, often life-saving, medical services that are unavailable locally. Need for referrals– the report says - has been exacerbated by the lack of adequate development of the public health care system in Gaza. Among the issues addressed are: protracted delays in receiving permits to access medical services; interrogation by the Israeli security services; travel difficulties; and (in certain cases) denial of access altogether. The report also offers data and statistics about referrals submitted and approved, and points out to some deficiencies in areas such as certain eye and pediatric surgeries, cardiac catheterization and tumor removal surgeries.

- The report is available at:
http://www.emro.who.int/palestine/reports/WHO_Referral_Abroad_Report_Gaza.pdf

[Analytical report on maximum available resources and human rights](#)

The Center for Women's Global Leadership of the State University of New Jersey at Rutgers has published an analytical report on Maximum Available Resources & Human Rights. The report summarizes the discussion of a seminar focusing on the evaluation of whether a state is using the maximum resources available for the fulfillment of economic and social rights.

- The report is available at:
<http://cwgl.rutgers.edu/globalcenter/publications/marreport.pdf>



Other Publications/ Reports

- Article on “The ‘Reasonableness’ Test: Assessing Violations of State Obligations under the Optional Protocol to the International Covenant on Economic, Social and Cultural rights”, Brian Griffey, June 2011: <http://hrlr.oxfordjournals.org/content/11/2/275.full>
- Commentary by Bill Wiist, Corporations and Health Watch on Corporate-based foundations and public health agenda: Philanthropic Foundations and the Public Health Agenda, August 2011: <http://www.corporationsandhealth.org/news/202/62/Philanthropic-Foundations-and-the-Public-Health-Agenda/d,Article>
- Sphere Handbook 2011 edition soon available in 20 languages- The Sphere Handbook establishes shared principles and a set of minimum standards in core areas of humanitarian response: water and sanitation; food security and nutrition; shelter and non-food items; and health. It offers a common language and provides guidance for effective and accountable humanitarian response and advocacy. <http://www.sphereproject.org/content/view/758/3/lang,english/>
- Human Rights Watch: “Stop Making Excuses” Accountability for maternal health care in South Africa, report, August 2011: <http://www.hrw.org/reports/2011/08/08/stop-making-excuses-0>
- Human Rights Watch: “Schools and Armed Conflict”: A Global Survey of Domestic Laws and State Practice Protecting Schools from Attack and Military Use, July 2011: <http://www.hrw.org/reports/2011/07/20/schools-and-armed-conflict-0>. This report is linked to a video : Education is a fundamental human right (Special rapporteur on the right to education, Kashore Singh), 1:43 min, <http://www.youtube.com/watch?v=KAMhJ9JNlvQ>
- Human Rights Watch: “My Children Have Been Poisoned”, a public health crisis in four Chinese provinces, June 2011: <http://www.hrw.org/reports/2011/06/15/my-children-have-been-poisoned-0>

Multimedia

- Confessions of a Special Rapporteur: the United Nations and the Search for Justice (Roberto Stavenhagen, former Special Rapporteur on the right of Indigenous peoples), 20 April 2011, 1h30, <http://www.youtube.com/watch?v=mhX58PBPeao>
- Interview of the Special Rapporteur on the Rights to Food, Olivier De Schutter, on the Horn of Africa crisis, 18 August 2011: <http://www.rfi.fr/emission/20110818-olivier-schutter-rapporteur-special-nations-unies-le-droit-alimentation>
- Corne de l'Afrique: les explications d'Olivier de Schutter, rapporteur spécial de l'ONU pour le droit à l'alimentation, 27 July 2011, 3:06, <http://www.tsr.ch/video/info/journal-19h30/3295093-corne-de-l-afrique-les-explications-d-olivier-de-schutter-rapporteur-special-de-l-onu-pour-le-droit-a-l-alimentation-2-2.html>

- Mission in Rio de Janeiro to investigate the impacts of the 2014 World Cup and 2016 Olympics (Special Rapporteur on adequate housing, Raquel Rolnik), 18-20 May 2011, 4:57 min, <http://www.youtube.com/watch?v=0hMI1TafE24>
- Human Rights Watch: Schools As Battlegrounds, July 2011, 3:13 min http://www.youtube.com/watch?v=_179fzp5jTM&feature=player_embedded

Training

- Online Course on Housing Rights and the Prohibition on Forced Evictions, Human Rights Education Associates (HREA): (Deadline for application is 1 October): http://www.hrea.org/index.php?base_id=711&language_id=1
- A 9-week online course for practitioners and activists on Sexuality, Disability, Social Justice, Public Health, Development, and Media – 17 October to 17 December, 2011- Organizer is CREA (deadline for application 15 September) : <http://web.creaworld.org/home.asp>

CASES, LEGISLATION & POLICIES

Nepal's Supreme Court issues interim order on right to health case

On 12 July, Nepal's Supreme Court issued an interim order to the Government to continue deploying medical doctors graduated under the government scholarship scheme to remote areas. The order came in response to a petition filed by the Forum for Protection of Consumers' Interest-Nepal against the decision of the Government which exempted a medical doctor from serving in remote areas by imposing a fine of Rs. 2,10,000 (approx \$3,000). The court said the Government breached the provision of the Scholarship Act 2021 (1964) which demands a five-year compulsory service in remote areas. The court decision is deemed important as the mandatory service in rural areas represents an effort on the part of the Government to fulfill its obligations under ICESCR

U.S. Courts Defend Freedom of Expression for NGOs working in HIV/AIDS Prevention and Outreach on Health

Several U.S. based non-governmental organizations engaged in HIV/AIDS prevention work abroad, challenged the Leadership Act which mandated them to take a position against prostitution in order to receive funding from USAID. On 7 July 2011, the Second Circuit Court held that the pledge violated the First Amendment rights of the U.S. based plaintiffs. The Court ruled that the Congress cannot place a condition on the apportionment of federal funds that infringes upon the recipient's rights – in this case freedom of expression. The decision offers arguments in favor of extra-territorial obligations of State and non-state actors, and advances the cause of organizations working on HIV/AIDS prevention and access to medicines.

- See more at: http://www.escr-et.org/caselaw/caselaw_show.htm?doc_id=1616627&country=13655

MERCOSUR requests an Advisory Opinion on migrant children's rights

On 6 July 2011, the governments of Argentina, Brazil, Paraguay and Uruguay requested an Advisory Opinion to the Inter-American Court of Human Rights on the protection of the rights of migrant children in the Inter-American Human Rights System. This is the first time that a

request of this sort is put forward jointly by a Group of four member states. Governments, with the support from the Institute for Public Policies in Human Rights (IPPDH in Spanish), argue that the human rights situation of children is of utmost importance for the effective fulfillment of human rights in the region.

[Moldova Supreme Court: migration and HIV](#)

On 22 December 2010, the Supreme Court of Justice of Moldova ruled in favor of a petitioner -- a foreigner of Moldova married to a Moldovan national -- who had been refused by the Bureau for Migration and Asylum (BMA) an immigration card based a HIV positive testing result. In its decision, the Court obliged the BMA to issue the immigration card. The court held that the refusal was disproportional due to the fact that no balance was stricken between the interests of the applicant to keep the family together and the interest of the State to protect the public health invoked by the authorities. This decision should trigger amendment of rules requiring a medical certificate and HIV/AIDS test to obtain a permit to live/work in Moldova, currently under review. OHCHR provided a range of legal materials to the Supreme Court of Justice in the course of proceedings related to the case.



Previous issues of the ESCR Bulletin are available at:

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

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