

# Committee on Economic, Social and Cultural Rights - 2018 Yearbook

---





# TABLE OF CONTENTS

3 Introduction

4 Message from the Chair

5 Committee Members

7 Facts & Figures

8 State Reporting Procedure

11 Concluding Observations

11 Bangladesh

12 Central African Republic

13 Mexico

14 New Zealand

15 Niger

16 Spain

17 Argentina

18 Cape Verde

19 Germany

20 Mali

21 South Africa

22 Turkmenistan

23 Communication  
Procedure

26 Working Methods

27 Thematic Work

# Introduction

We are pleased to publish our second annual Yearbook on the work of the UN Committee on Economic, Social and Cultural Rights, covering the Committee's work and accomplishments during 2018.

The Committee is the premier international human rights institution charged with the implementation of the International Covenant on Economic, Social and Cultural Rights, which has been ratified by 168 countries. Its decisions, Concluding Observations and General Comments provide authoritative interpretation of the treaty and the rights enshrined therein, and clarify the nature of State party obligations.

With increasing inequalities both within States and between States, the work of this particular Committee is crucial to helping create a more just world, and with the Year Book we hope to foster stronger use of human rights law and mechanisms by civil society and States working towards that goal.

The inaugural edition was well received by academics, advocates and others, who welcomed the increased visibility of the Committee's work and found it useful for human rights advocacy. We were urged to continue publishing the Yearbook on an annual basis and hope that the 2018 edition continues to

contribute to the advancement of human rights protections around the world. A key goal of the Yearbook is to ensure that the important work of the Committee is increasingly accessible to civil society and is translated into meaningful and lasting change on the ground. The Year Book also aims to highlight the importance of strong, independent, properly resourced Committees with independent, diverse and quality membership.

The Yearbook provides summary information and highlights important trends and developments. Please note that it is not an exhaustive cataloguing of the Committee's activities, and for further information we encourage you to consult the Committee's original documents, via its [website](#).

We at the Global Initiative for Economic, Social and Cultural Rights hope you find the Yearbook informative and useful, and we look forward to producing future editions in the coming years.

Co-Executive Directors  
Bret Thiele & Mayra Gomez





# Message from the Committee Chair, Ms Maria Virginia Brás Gomes

This is the second Yearbook published by the Global Initiative for Economic, Social and Cultural Rights on the work of the Committee. It highlights its role in monitoring, setting standards and issuing views on individual communications. We are glad the initial edition of the Yearbook in 2018 was useful to the different stakeholders involved in the work of the Committee and, more importantly, in making rights real on the ground.

The Committee continued its review of state parties under the usual reporting procedure as well as using the List of Issues prior to Reporting (LOIPRs) for the first time in the case of New Zealand and Spain. After an initial assessment of the results of this experimental exercise, the Committee should be able to now adopt the LOIPRs for other interested States on a general basis. A number of them have already indicated their preference for the LOIPR's, which does carry resource implications for the Committee and the Secretariat.

Half of the State Party reports considered in 2018 were initial reports, most of them hugely delayed. We hope this is a sign of future periodic engagement with the Committee. On our part, we will continue to take all possible steps to encourage States that have not yet reported or are long delayed, to report in the shortest possible delay. The Committee has taken every opportunity to further discuss old and new challenges to the realisation of economic, social and cultural rights, whether in the context of the on-going preparation of its general comments on Land and ESCR or on the links between ESCR and Sustainable Development or in its exchange with NGO's and academics working on issues, such as income redistribution measures, effects of climate change and environmental degradation on ESCR and privatisation of education, to mention just a few.

The Day of General Discussion devoted to the links between science and ESCR, provided an excellent opportunity for a discussion with many participants with different view-points that will enrich this General Comment in its successive readings by the Committee till its adoption.

The violation by Ecuador of the right to social security and gender equality in the case E/C.12/63/D/10/2015, has clarified the position on pensions for women, who due to intersectional discrimination, accumulate disadvantages along their life cycle. In this case, the Committee unpacked the gendered impact of voluntary social security schemes and reiterated the need for a non-contributory scheme for a State to comply with its obligations under Article 9 of ICESCR.

The Committee remains engaged in the 2020 review process, hoping to contribute to a common treaty body reflection on the strengths of the system, the constraints to the protection of rights and the need for adequate resources for treaty bodies to be able to fulfill their responsibilities, with the support of the OHCHR. It is very reassuring for the Committee to see its work reflected in this Yearbook for present consultation and future memory.

Personally, it is also an opportunity, at the end of my term, to express my gratitude to all those who joined me in this common endeavour of contributing to the realisation of ESCR for all. It was a privilege to have belonged to a Committee that strives to make real everyday rights for everyday people.

**Virginia Brás Gomes**  
**Chair, Committee on**  
**Economic, Social**  
**and Cultural Rights**



# Committee Members

## 18 Committee Members:

- 5 women and 13 men
- 12 academics
- 4 former diplomats
- 2 public servants
- 1 judge
- 1 National Human Rights Institution representative



# Geographical Distribution of Committee Members in 2018

**Maria Virginia BRAS GOMES** (Chair), Portugal

**Mohamed Ezzeldin ABDEL-MONEIM** (Vice-Chair), Egypt

**Zdzislaw KEDZIA** (Vice-Chair), Poland

**Heisoo SHIN** (Vice-Chair), Republic of Korea

**Lydia Carmelita RAVENBERG** (Rapporteur), Suriname

**Aslan ABASHIDZE**, Russian Federation

**Clement ATANGANA**, Cameroon

**Laura-Maria CRACIUNEAN-TATU**, Romania

**Shiqiu CHEN**, China

**Chandrashekhar DASGUPTA**, India

**Olivier DE SCHUTTER**, Belgium

**Azzouz KERDOUN**, Algeria

**Sandra LIEBENBERG**, South Africa

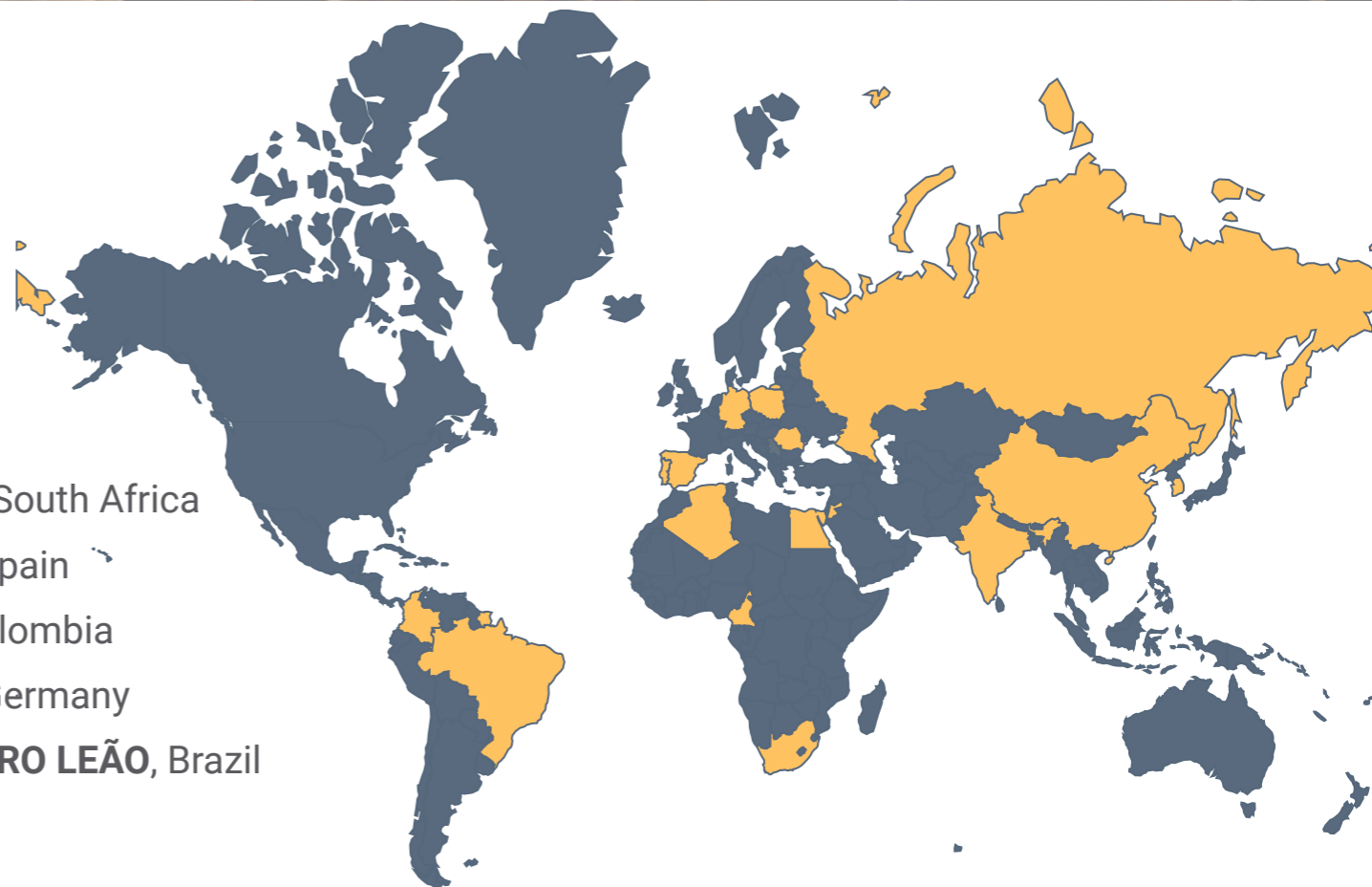
**Mikel MANCISIDOR**, Spain

**Rodrigo UPRIMNY**, Colombia

**Michael WINDFUHR**, Germany

**Renato ZERBINI RIBEIRO LEÃO**, Brazil

**Waleed SADI**, Jordan



# Facts & Figures

2

**Committee Sessions**

2

**Meetings with State Parties**

9

**Days of Pre-session Working Group Meetings**

37

**Plenary Meetings**

1

**Day of General Discussion**

## **In 2018 the Committee received:**

- 150 NGO Parallel Reports (for the session or List of Issues)
- 11 National Human Rights Institution Parallel Reports

## **The most NGO Parallel Reports were received for:**

- Argentina (28)
- Mexico (27)

## **The lowest numbers of NGO reports were for:**

- Cabo Verde (2)
- Turkmenistan (2)
- Central African Republic (2)



# State Reporting Procedure - Overview

In 2018 the CESCR reviewed the State reports of 12 countries: Argentina, Bangladesh, Cabo Verde, Central African Republic, Germany, Mali, Mexico, New Zealand, Niger, Spain, South Africa, Turkmenistan.

Whilst the Committee has eliminated its backlog of reports, the rate of submission of State reports remains low and at the end of 2018, there were 27 States Parties who have never submitted a report to the Committee. Nevertheless, 2018 brought a positive trend with half of the State Party reports considered, being initial reports (Bangladesh, Mali, Cabo Verde, Central African Republic, the Niger and South Africa). For initial reports the Committee allocates longer time for the Dialogue with the State Party (9 hours as opposed to the usual 6 hours).


There were a number of topics that the Committee consistently addressed in almost every review. For example, States were regularly asked about the **justiciability** of ESC rights and the application of the Covenant in domestic legislation and court cases.

Most States were called on to ratify the Optional Protocol to ICESCR and to develop and apply ESC rights indicators (using the OHCHR framework on human rights

indicators), in order to monitor progress towards the realisation of ESC rights.

The Committee also made standardised recommendations for most States in relation to the **Sustainable Development Agenda**. States were reminded States to take account of their ICESCR obligations, and the principles of participation, accountability and non-discrimination, when implementing the SDGs. The important role of national human rights institutions in the implementation and monitoring of rights was also stressed by the Committee in relation to a number of States (Cabo Verde, Niger).

There were a number of **themes** that received attention in 2018. The Committee continued to emphasise States' obligations to mobilise the **maximum available resources** and to highlight taxation and other income redistribution measures as necessary for the fulfilment of ESC rights. For example, in relation to Spain, it said: *'The Committee is concerned at the inadequacy of the fiscal policy to address the adverse effects of the growing social inequality in the State party, due to the excessive share of indirect taxes as a proportion of total State revenue and the failure of certain transfers to reach the population segments they were intended to benefit.'*

A photograph showing three individuals in a meeting. On the left, a man with glasses and a dark suit. In the center, a man with a mustache and glasses, also in a dark suit. On the right, a woman with dark hair, wearing a red top, looking towards the center. The background is a light-colored wall with a grid pattern.

# State Reporting Procedure - Themes

For a number of countries, the Committee prefaced its discussion of maximum available resources, with concerns about high levels of **economic inequality** (South Africa, Niger, Bangladesh, Argentina). On South Africa the Committee said:

*'With a Gini coefficient of 0.63 and a Palma ratio of 7.1, the State party is among the most unequal countries in the world; market inequalities, before tax and redistribution, are even more striking. ... the persistence of such inequalities signals that the model of economic development pursued by the State party remains insufficiently inclusive.'*

The activities of **business actors** also received strong attention in 2018 (Spain, NZ, Argentina, Mexico). Frequently the Committee expressed concerns about business activities in the extractives sector and their impact on labour rights and environment (rights to water, health) (Niger). Concerns about the impact of **business activities** on the ESC rights of indigenous peoples were also often raised in the context of extractives (Mexico). Further, the Committee called on Germany to put in place mandatory human rights due diligence requirements for corporations and with Cabo Verde, Sth Africa and Mali, raised concerns about disparities in access and quality as a consequence of **privatisation of social services**.

**Climate change and environment** were also common themes in 2018 (Cabo Verde).

For example, the Committee regretted that Germany was 'not on course to meet its greenhouse gas emission reduction targets for 2020'. In relation to Argentina the Committee expressed '*concern about plans for large-scale exploitation of unconventional fossil fuels (shale gas and shale oil) through hydraulic fracturing in the Vaca Muerta region of Neuquén Province.*' Further that this plan '*runs counter to the State party's commitments under the Paris Agreement and would have a negative impact on global warming and on the enjoyment of economic and social rights by the world's population and future generations*'.

It recommended that Bangladesh '*ensure that strategies and action plans on climate change and disaster response and risk reduction are formulated and implemented on the basis of human rights and with the meaningful participation of affected communities and civil society. .... further strengthen international cooperation in order to mobilize the financial and technological support to which it is entitled in mitigating and responding to the effects of climate change.*'

As has been its practice in the past, the Committee continued to highlight the situation of **specific groups**, such as migrants (Germany), ethnic minorities (Bangladesh), indigenous peoples (NZ), children, LGBTI persons (Germany) and persons with disabilities (Turkmenistan).

A photograph showing three individuals in a meeting or conference setting. On the left, a man with glasses and a mustache, wearing a dark suit, white shirt, and blue tie, is looking towards the center. In the middle, a woman with dark curly hair, wearing a dark jacket and a bright pink scarf, is looking down. On the right, another woman with dark hair, wearing a dark jacket and a light blue shirt, is also looking down. The background is a plain, light-colored wall.

# State Reporting Procedure - Themes

For example, the Committee urged New Zealand to *'Take effective measures to facilitate access by children with disabilities to inclusive education, including by strengthening the allocation of resources for the provision of reasonable accommodation and any additional support needed'*. It also frequently raised concerns about regional and rural disparities in the enjoyment of ESC rights (South Africa, Spain).

Where countries were experiencing **conflict situations** which were seriously hampering their abilities to realise ESC rights (CAR, Cameroon, Mali), the Committee acknowledged the difficulties faced and gave guidance on the States' obligations in that context. To the CAR, it noted: *'.. in a situation of conflict since 2012, ... is able to exercise effective control over not more than about a third of the national territory .... almost one fifth of the country's population has been forcibly displaced: .... 2.5 million people are in need of humanitarian assistance and only 39 per cent of the necessary funding has been found ...'* It also emphasised the importance of ESC rights in the peace and reconciliation process: *'A recognition of economic, social and cultural rights may alleviate some of the underlying causes of the conflict, such as inequalities of treatment between .... different sectors of the population, or the seizure of resources by a few individuals.'*

**Corruption** and its impact on the State's ability to realise ESC rights was also an important topic in a number of State reviews (Turkmenistan, Mexico, Argentina). To Cape Verde, the Committee recommended: *'address the root causes of corruption and continue its efforts to combat the practice by pursuing ongoing initiatives and reforms related to taxation, procurement, oversight and money-laundering, and ensuring the effective implementation of the integrated plan to combat corruption.'*

**Human rights defenders** of ESC rights also received significant attention in 2018 (South Africa, Argentina, Mali). For instance with Bangladesh, the Committee was: *'concerned at repeated reports of shrinking space for human rights defenders, including journalists, trade union activists and civil society activists and for dissenting voices generally. It is particularly concerned about overbroad restrictions on the activities of human rights defenders imposed by certain provisions in current or proposed legislation'*.

---

*The following pages contain summaries of the Concluding Observations for each of the States reviewed in 2018. NB: the summaries do not include every issued addressed by the Committee.*



# Bangladesh E/C.12/BGD/1

In its consideration of Bangladesh's initial report, the Committee commended the State party on steps taken to reduce poverty and promote gender equality. The Committee recommended that Bangladesh fully incorporate ESC rights into its Constitution and consider withdrawing its Covenant reservations. The Committee commended Bangladesh on its Strategy and Action Plan on climate change and disaster risk reduction and encouraged it to implement them using a human rights based approach.

Regarding education, the Committee advised Bangladesh to adopt the framework of the right to education, ensure consistency of quality and curriculum across all schools and provide inclusive education for children with disabilities. It was also recommended that Bangladesh bring madrassas schools within the control of the Ministry of Education and promote the use of mother tongues in teaching for indigenous communities.

Regarding health, the State was advised to improve the availability, affordability and quality of healthcare, including by providing incentives to retain medical practitioners, improving mental health facilities and ensuring access to sexual and reproductive health services for girls and women, and age appropriate sexual and reproductive health education for children.

In the area of water and sanitation, the Committee expressed concern over the arsenic contamination of drinking water from tube wells. It urged Bangladesh to decontaminate the water and provide alternative water sources and health care to affected people.

On housing, the Committee expressed concern about the high number of people living in urban informal settlements with limited access to basic services. Bangladesh was advised to improve provision of affordable social housing, provide security of tenure to people in informal settlements and establish a legal procedure in cases of forced evictions in line with general comment No. 7 of 1997.

The Committee also commended the State party for taking in Rohingya refugees from Myanmar, but recommended that they be given legal status to ensure they can effectively access health, education and work

Bangladesh was asked to submit follow-up information in 24 months on the concluding observations on adoption of comprehensive anti-discrimination legislation, the Rohingya refugees and the victimization of trade union activists.

*7 NGO  
session  
reports*

*NHRI session  
report*

*6 in State  
delegation*



# Central African Republic E/C.12/CAF/1

*3 NGO session reports*

*No NHRI report*

In considering the initial report of the Central African Republic, the Committee took cognizance of the fact that the CAR is facing armed conflict and the government only has effective control of a third of the country. It observed that ESC rights do not cease in situations of war and that the promotion of such rights might alleviate some of the underlying causes of conflict. The Committee commended the State party for creating a human rights commission.

The Committee recommended the CAR; establish a framework where displaced persons returning have access to basic ESC rights such as water, healthcare, education, access to land; put in place interventions to assist groups such as persons with disabilities, to access the same services; respect the right to citizenship and birth registration for children born in situations of war; put in place mechanisms to implement Agenda 2030.

It expressed concern about corruption and recommended the CAR tackle the root causes of corruption, promote transparency and better facilitate the High Authority in charge of good governance.

Bangladesh was also advised to promote an environment of non-discrimination by revising laws that cater for the employment of persons with disabilities, adopt a strategy that promotes the rights of indigenous communities, and amend the Labour Code to combat gender segregation and stereotypes.

On education, the Committee urged Bangladesh to: give priority to its peace and reconciliation initiatives; ensure demobilised child soldiers, children with disabilities and girls, are guaranteed access to primary education; and prioritise recruitment and remuneration of qualified primary teachers. On labour, the CAR was advised to increase the minimum age of employment, eliminate child labour and protect the right to form and take part in trade unions.

Regarding health, the Committee expressed concern about the reduction in government spending and advised CAR to: increase its expenditure on health; recruit more health personnel; facilitate access to antiretroviral treatment; promote sexual and reproductive health for girls; and protect medical facilities from attacks during armed conflict.

# Mexico E/C.12/MEX/5-6

In considering Mexico's fifth and sixth Reports, the Committee commended Mexico on its national fight against hunger and noted its innovative step of incorporating the Sustainable Development Goals into its budget and its efforts to make the tax system more equitable.

The Committee expressed concern at the very high levels of poverty and inequality, particularly for disadvantaged and marginalized groups. It urged Mexico to adopt a comprehensive plan to significantly narrow the inequality gap and to ensure that social programmes are implemented in accordance with human rights standards, are allocated sufficient resources and target disparities between different social groups.

The Committee raised grave concerns about the situation of defenders of ESC rights and the high level of impunity. It highlighted the need to curb corruption and guarantee the protection of whistle blowers and witnesses.

Mexico was urged to increase efforts to protect the cultural rights of indigenous peoples and in particular, their rights to own, use, develop and control their lands and natural resources. It expressed concern that despite non-binding protocols on prior consultation, they were frequently not respected.

On education, the Committee noted the disparities in quality of education between rural and urban areas, the limited availability of preschools for poor children, and the lack of access to education for migrant, asylum seeker, refugee children and those with disabilities.

On health, the Committee expressed concerns about regional disparities in access to quality and affordable health services, the forced treatment of persons with disabilities and the lack of suitable programmes for the treatment and rehabilitation of drug users. Mexico was advised to: ensure universal access to health care especially for low income earners; ensure that all women have equal access to sexual and reproductive health information and services and reduce teenage pregnancy.

The Committee was concerned at the high levels of malnutrition and food insecurity, on the one hand, and rising levels of obesity, on the other. It recommended a comprehensive national strategy for the protection of the right to food in order to address food insecurity and to promote healthier diets.

While noting the drafting of the National Action Plan on business and human rights, the Committee called for companies to be legally required to undertake human rights impact assessments.

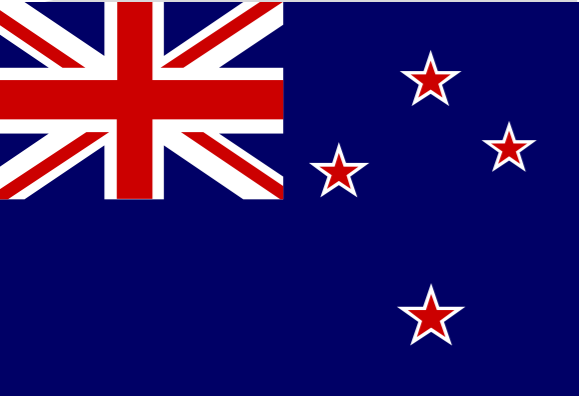
*19 NGO session reports*

*6 NGO LOI reports*

*NHRI session report*

*NHRI LOI report*

*43 in State delegation*



# New Zealand E/C.12/2018/SR.18 and 19

*11 NGO session reports*

*2 NGO LOI reports*

*2 NHRI session report*

*1 NHRI LOI report*

*10 in State delegation*

The Committee reviewed the State party's fourth report and commended the State for protecting migrants through the Migrant Exploitation Prevention Strategy (2015–2018) and the amendment to the Immigration Act.

Concerns were expressed by the Committee that ESC rights are not fully incorporated in the State's laws and have a subordinate status in the Bill of Rights. Regarding the right to freely dispose of natural resources, the Committee noted that the Treaty with the Maori people was not legally enforceable and there is a lack of meaningful participation of Māori in decision-making impacting their rights.

On education, the Committee expressed concern about the lower outcomes for Maori and Pasifika students at secondary and university levels and the limited number of Maori speaking teachers. It recommended a culturally appropriate education system be developed to improve the outcomes of Maori and Pasifika learners.

On social security, the Committee encouraged the State to pursue its intention to reform the social security system, in wide consultation with civil society and recommended NZ

guarantee the social security benefits are adequate to ensure an adequate standard of living and assess the effectiveness of the sanctions regime.

On business, the Committee urged NZ to: expedite the adoption of a National Plan of Action on business and human rights; strengthen legal liability for companies operating in NZ and abroad; and strengthen the national contact point established under the OECD Guidelines for Multinational Enterprises.

On housing, the Committee noted the unaffordability of housing for families, the increase in homelessness, unsafe rental housing units and the shortage of social housing.

It recommended that NZ: adopt a human rights-based national housing strategy; increase the availability of quality affordable housing for low-income people; redouble its efforts to regulate the private market, including by controlling rent increases and minimum standards for heating and insulation in rental homes; ensure its housing policy caters for the most marginalized such as the Maori, Pasifika and persons with disabilities;

# Niger E/C.12/NER/1

*4 NGO  
session reports*

*No NHRI report*

*14 in State  
delegation*

The Committee reviewed the initial report of Niger and commended it on its ratification of the Optional Protocol.

On the right to education, the Committee noted inequalities in access for children with disabilities and those in rural areas. It observed that prioritization of education of girls remains low and there is a high dropout rate due to early marriage and much higher levels of illiteracy among women. The Committee noted the shortage of qualified teachers, teaching materials, infrastructure, water and sanitation in schools. The Committee recommended that more funds be invested in education and more emphasis be given to issues of equity and inclusion.

On health, the Committee noted that the budgetary allocation for health remains low and only about 5% of the population have health insurance. This has led to poor health outcomes such as a very high rate of infant and maternal mortality. Teenage pregnancies remain high because of lack of access to reproductive health services and contraception. Provision of sexual and reproductive health services should be scaled up.

The Committee regretted the lack of comprehensive data, but noted that food insecurity is evidently high as seen in high malnutrition among children. It recommended improved support

to small holder farmers, full implementation of the 3N (Nigerians Nourishing Nigerians) strategy and the collection of disaggregated data on hunger and malnutrition.

On labour rights, the Committee expressed concern that: the minimum wage is currently not commensurate with the cost of living; women are disproportionately affected by unemployment; high child employment and exploitation in agriculture, domestic services, mines and slaughter houses. This is compounded by the fact that the labour inspection system is poorly resourced.

The Committee recommended that legislative and administrative measures be adopted to periodically review the minimum wage, eliminate child exploitation and formalise the informal sector.

It was noted that harmful business practices especially in natural resource extraction, continue to harm the health of workers and communities and the livelihood of small holder farmers.

On non-discrimination, the Committee noted that gender inequality remains common in customary law and is manifest in sexual and gender-based violence. The Committee urged Niger to eliminate customs such as early marriage which hinder girl's rights and to adopt a comprehensive anti-discrimination law.

# Spain E/C.12/ESP/6

The Committee considered the sixth periodic report of Spain, acknowledging the impact of the international financial crisis and noting the high percentage of the population at risk of poverty and social exclusion, for a developed country. It welcomed the Spain's adoption of the National Plan of Action for Social Inclusion 2013–2016, the Comprehensive National Strategy for Homeless Persons 2015–2020 and the National Plan on Business and Human Rights.

The Committee called on Spain to take legislative measures to ensure that ESC rights enjoy the same level of protection as civil and political rights and provide training on ESC rights to judges, lawyers and law enforcement officials.

Discussing the maximum available resources, the Committee expressed concern at the inadequacy of Spain's fiscal policy to address the growing social inequality, including too many indirect taxes and tax exemptions and the failure of certain transfers to reach the intended beneficiaries. It made recommendations for a socially just and redistributive tax system and a human rights evaluation of fiscal policy.

On education, the Committee raised concerns about the high dropout rates especially among disadvantaged groups such

as the Gitano and Roma, persistent segregation and the impacts of austerity measures on education access and quality. It recommended that Spain adopt a strategy that addresses the socioeconomic factors which influence decisions to leave education prematurely and intensify its efforts to combat school segregation.

Regarding migrants and asylum seekers, the Committee expressed concern about limited enjoyment of ESC rights and inadequate living conditions in temporary migrant reception centres. It recommended that Spain adopt measures to integrate those groups and ensure access to water, food, education and healthcare.

On housing, the Committee expressed concern about a shortage of social and affordable housing, the lack of adequate protection of security of tenure and the large number of homeless persons. It recommended that Spain: allocate adequate resources to address the social housing deficit, especially for the most disadvantaged; regulate the private housing market, to improve the accessibility, availability and affordability of housing for low income persons; review its tenancy and tenure security legislation; and ensure the availability of emergency shelters.

*6 NGO session reports*

*6 NGO LOI reports*

*No NHRI session report*

*1 NHRI LOI report*



# Argentina E/C.12/ARG/4

*21 NGO  
session reports*

*7 NGO LOI  
reports*

*No NHRI  
session report*

*NHRI LOI report*

*13 in State  
delegation*

Reviewing the 4th periodic report of Argentina the Committee was concerned that austerity measures and reduced government expenditure will reduce the enjoyment of ESC rights and advised Argentina to undertake a prior rights impact assessment of these measures, to preserve budget lines related to social spending and ensure that the budget reflects a human rights and gender-sensitive approach.

Raising a number of concerns about the rights of indigenous peoples, particularly in relation to land and natural resources, the Committee urged Argentina to: complete the land demarcation processes and grant community land titles to indigenous communities; undertake participatory human rights assessments before authorizing the exploitation of natural resources; systematically consult indigenous peoples, before concessions are granted for the economic exploitation of the lands and territories traditionally occupied by those peoples.

Noting the high level of social inequality, the Committee recommended the strengthening of the redistributive capacity of the tax system and a transparent and participatory assessment of tax exemptions.

The Committee recommended Argentina improve its health infrastructure and services, ratify the WHO Framework Convention on Tobacco use, ban tobacco advertising, replace psychiatric institutions with community based mental health services and fully implement the 2012 Supreme Court decision on legal abortion.

On housing, the Committee highlighted: the increase in informal settlements without basic services; regressive laws on evictions; evictions enforced with violence; and the adverse impact of speculation in land, real estate and construction, on housing accessibility and affordability. It recommended that Argentina: update the eviction laws; make available urban lots for social housing; and carry out an impact study on land speculation.

On climate change, the Committee expressed concern that Argentina's hydraulic fracturing plans in the Vaca Muerta run contrary to its commitments under the Paris Agreement to achieve the 1.5°C target and adversely impact the rights of local communities. It recommended that Argentina reconsider the exploitation of unconventional hydrocarbon fuels and instead promote renewable energy sources.

# Cape Verde E/C.12/CPV/1

The Committee considered the initial report of Cape Verde and noted that the National Commission on Human Rights and Citizenship is not independent and lacks sufficient resources to fully execute its mandate. It recommended bringing the Commission in line with the Paris Principles.

The Committee expressed concern about the lack of reference to the Covenant in Court proceedings and recommended awareness raising on the ICESCR among justice actors.

Noting the impacts of natural disasters on ESC rights, particularly the poor and marginalized, the Committee advised Cape Verde to strengthen policies to manage natural disasters and mitigate climate change.

The Committee highlighted the disparities between the different islands in household income, poverty and general enjoyment of ESC rights. Persons with disabilities continue to face discrimination due to inaccessible public facilities, negative stereotypes and lack of reasonable accommodation which affects their access to employment.

Gender inequality remains a problem, evidenced by the disproportionately low representation of women in the judiciary, legislature and civil service.

The Committee recommended implementation of the Strategic Sustainable Development Plan, intended to improve equality, and that a comprehensive anti-discrimination law be enacted.

On health, the Committee called on Cape Verde to address the lack of personnel trained to deal with HIV/AIDS, persons with disabilities and sexual and reproductive health and the lack of specialized doctors on the islands.

On the right to work, the Committee noted high unemployment, especially among youth and women, and a significant gender wage gap, with women working largely in the informal sector and unable to access social security. It also noted that the agricultural and domestic worker sectors pay little attention to the minimum wage. It recommended the expansion of the national programme of professional internships and vocational training, as well as measures to combat gender discrimination and encourage women's participation in the labour market.

On housing, the Committee was concerned about high numbers of people living in informal settlements and the unhealthy living conditions, high crime rate and violence, therein. It recommended informal settlement upgrading and improvement of access to adequate housing through programs such as Casa para Todos.

*1 NGO session  
report*

*1 NHRI report*

*4 in State  
delegation*

# Germany E/C.12/DEU/6

The Committee considered the sixth periodic report of Germany and welcomed the introduction in 2015 of the national minimum wage and Germany's plans to ratify the Optional Protocol to ICESCR.

The Committee welcomed the National Action Plan on Business and Human Rights, but was concerned at the voluntary nature of the due diligence obligations and the lack of monitoring mechanisms.

Regarding education, the Committee expressed concern about the shortage of teachers, the high number of students with disabilities in special schools and the obstacles faced by refugees and asylum seekers in accessing education and recommended the recruitment of trained and qualified teachers to fill the gap and better efforts to ensure access to equal and quality education for refugees and asylum seekers.

In relation to international financial institutions, the Committee expressed regret that, as a State member of international financial institutions such as the International Monetary Fund, Germany has not sufficiently exercised its great leverage to ensure that loan conditionalities do not result in unjustified retrogression in the enjoyment of ESC rights in borrowing States.

On employment, the Committee expressed concern about the increase in precarious jobs (mini-jobs, temporary agency work, part-time work) where the wages are very low. It recommended the regularization of precarious employment, incentivization of employers to create better paying positions and recruitment of care givers as full-time employees. It also expressed concern over the high numbers of unemployed persons with disabilities, the lack of sufficient data to enforce the minimum wage and the high gender pay gap. It recommended full compliance with the 5% quota for employment of persons with disabilities and more measures to ensure that every worker receives the minimum wage. Regarding the gender pay gap, it urged Germany to address vertical and horizontal segregation and review social and tax policies.

On the rights of migrants, the Committee expressed concern over laws which mandate public authorities to report undocumented migrants, which can deter migrant workers from seeking economic and social services and from reporting crimes.

On climate change, the Committee regretted the fact that Germany was not on course to achieve its greenhouse gas emission targets for 2020 and recommended it intensify efforts to do so.

*16 NGO session reports*

*9 NGO LOI reports*

*No NHRI session report*

*1 NHRI LOI report*

*23 in State delegation*



# Mali E/C.12/MLI/1

The Committee considered the initial report of Mali and commended it for creating a National Human Rights Commission, adopting a law on corruption and a framework on economic recovery and sustainable development, and prioritizing poverty alleviation and access to health.

Recognizing the fact that Mali is handicapped by armed conflict in some areas, the Committee recommended that the 2015 Agreement on peace and reconciliation be implemented with the active and transparent participation of civil society.

The Committee recommended the review of tax exemptions for the exploitation of natural resources, with a view to raising the level of public spending for ESC rights and that the budget be prepared in a transparent and participatory manner.

On equality between men and women, the Committee regretted the persistence of stereotypes and customary and traditional practices that reinforce discrimination against women in all areas, and particularly women's access to land and resources. It urged the State to address these issues.

The Committee raised concerns that health care is still unaffordable for most people and there are inadequate health

personnel, infrastructure and equipment. The Committee recommended that Mali introduce universal health care, ensure mental health service provision especially at the community level, increase the number of qualified health professionals and prioritize sexual and reproductive health for women and girls.

On education, the Committee expressed concern about: lack of access to education in rural areas; high dropout rates for girls; unregulated Koranic/ madrassa centres. Mali was asked to: take over primary responsibility for provision of quality education; develop policies to discourage girls from dropping out of school; bring madrassas under the control of the Ministry of Education; integrate children with disabilities in mainstream schools.

On the right to work, the Committee urged Mali to: raise the minimum wage; bring its legislation on trade union rights into line with article 8 ICESCR; take measures to eradicate forced labour and debt bondage and prosecute perpetrators; ensure that informal sector workers enjoy labour law and social protections.

The Committee also raised concerns about the negative impacts of mining operations on the environment and the rights of affected communities. It recommended Mali develop guidelines for human rights assessments of mining projects and ensure affected communities receive compensation for damage suffered and benefit from revenues derived from the activities.

*3 NGO session reports*

*No NHRI report*

*5 in State delegation*



# South Africa E/C.12/ZAF/1

The Committee reviewed South Africa's initial report, commending the State party on achieving several milestones, but noting a range of challenges.

Acknowledging South Africa's liberal Constitution, the Committee noted that some ESC rights were not protected, and there was minimal judicial knowledge of the ICESCR.

Regarding maximum available resources, the Committee said the fiscal policy seemed unable to properly raise funds and alleviate inequality. It recommended that the fiscal policy be reviewed, the increase in VAT be subjected to human rights assessment and the growth model be re-examined in order to move towards more equitable development.

On the right to work, the Committee was concerned about the low minimum wage for domestic workers, the lack of monitoring of worker's rights in mines and on farms, gender income disparity, failure to meet the 2% employment quota for persons with disabilities and the spiralling levels of unemployment especially amongst youth.

On education, the Committee was concerned that enrollment numbers for children with disabilities remained low, especially

for rural and poor families. The Committee said voluntary additional fees continue to hinder access to education as they are not affordable for poorer families. The Committee asked South Africa to do more to curb the school dropout rate of girls especially arising due to pregnancy.

On health, the Committee noted that access remains unequal between persons going to public health facilities and those accessing private services and recommended that the government expedite the National Health Insurance Bill. The extremely low access to abortion services was also of concern.

On housing, the Committee was concerned about the increase in informal settlements and the lack of access to essential services, like water, within these settlements.

It also noted that forced evictions continue to be carried out in South Africa without providing alternative accommodation to those evicted. In the area of discrimination, the Committee noted that despite the government's efforts, indigenous communities like the Khoi-San, remain unable to fully enjoy their ESC rights.

Persons with albinism are still subject to discrimination, and sex workers are continuous victims of brutality and exploitation. It noted that South Africa hosts many refugees and asylum seekers, and these groups should be afforded the right to work.

*20 NGO  
session reports*

*7 NGO LOI  
reports*

*NHRI session  
report*

*NHRI LOI report*

*13 in State  
delegation*



# Turkmenistan E/C.12/TKM/2

*2 NGO session reports*

*No NGO LOI reports*

*No NHRI report*

*7 in State delegation*

The Committee considered Turkmenistan's second report and regretted the lack of data provided by the State party on the realization of ESC rights and on how Courts interpret ESC rights. It noted that the judiciary seems to lack independence since the President can appoint and dismiss judges at will.

The Committee raised concerns about high levels of corruption, particularly within the health and education sectors, and the failure to investigate or prosecute any cases. This is exacerbated by the weak Ombudsman and highly restricted space for civil society organizations. It recommended that Turkmenistan implement anti-corruption laws and set up a mechanism that monitors and encourages complaints about corruption.

On non-discrimination, the Committee noted that: lesbians, gays, bisexual, transgender and intersex persons continue to face stigmatization and criminalization; persons living with HIV/AIDS are discriminated against in marriage and travel; persons with disabilities continue to face discrimination in employment; and gender discrimination is evident in the under-representation of women in public office, the low percentage of women in employment, the gender wage gap, virginity testing and sexual harassment. This is made worse by the lack of a comprehensive anti-discrimination law.

On the right to water, the Committee noted that although efforts have been made to improve access to water, safe drinking water remains relatively inaccessible in rural areas.

In the housing sector, forced evictions in the guise of beautification have been rampant and without any appropriate compensation. It recommended that Turkmenistan urgently put in place an independent and impartial adjudicatory body to hear complaints of illegal evictions and monetary compensation

On the right to work, forced labour remains high especially during cotton harvest, despite its prohibition under the Constitution. The Committee was concerned that Turkmenistan does not recognize the right to form trade unions and therefore workers are fearful of reprisals for joining unions. It recommended the strict enforcement of laws prohibiting child and forced labour.

On education, the Committee expressed concern about the obstacles faced by ethnic minorities that want to receive education in their mother tongue, such as insufficient teachers and materials in those languages.

The Committee advised Turkmenistan to expand access to the internet, particularly to rural areas.

# Communications Procedure

At Dec 2018 a total of 62 communications had been registered by the Committee under the Optional Protocol.

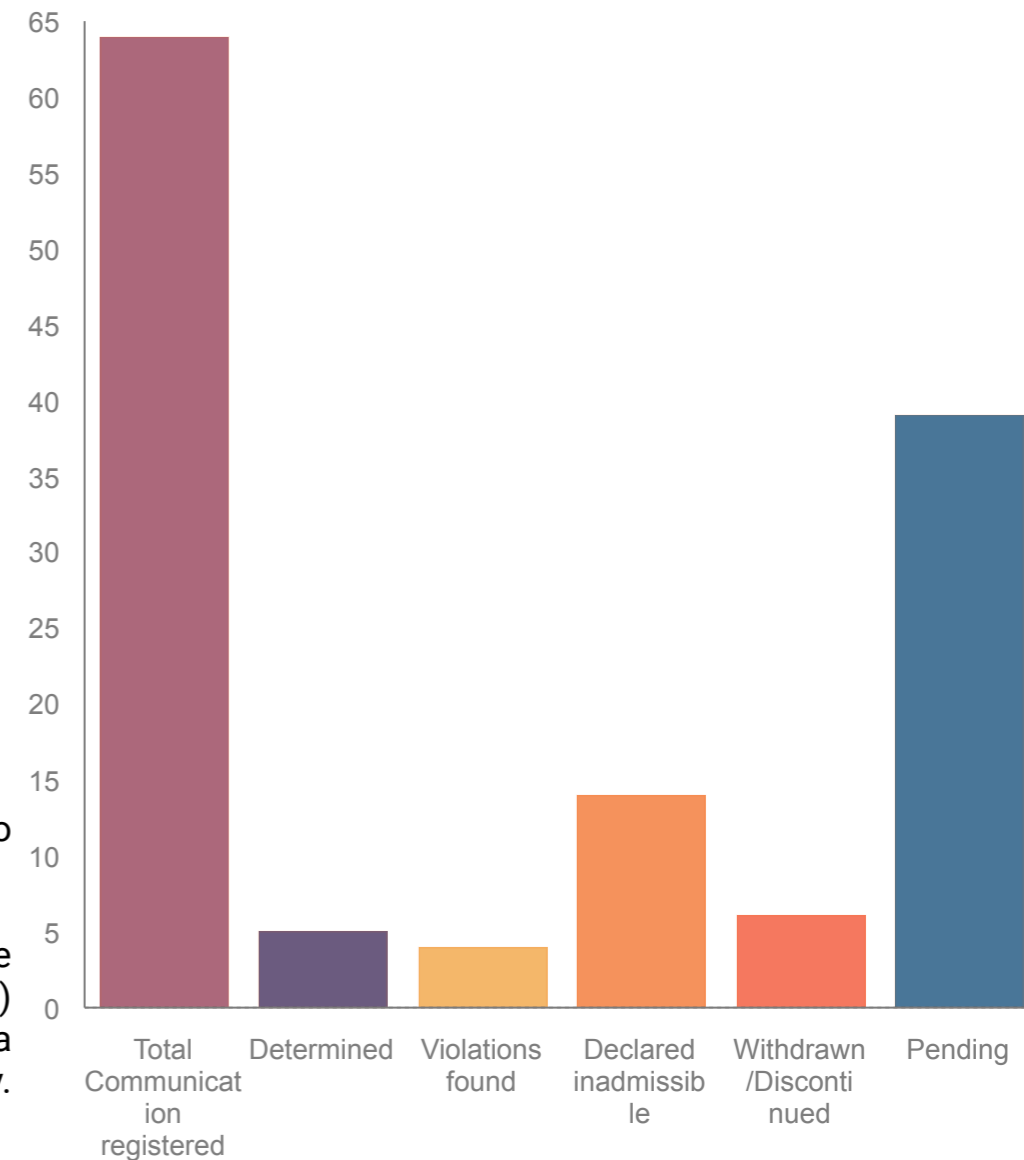
- The Committee has adopted 5 'Views' (decisions), of which 4 were found to be violations of the ICESCR;
- 14 communications have been declared inadmissible;
- 6 communications have been discontinued or withdrawn;
- 43 communications are pending before the Committee.

2018 saw a significant influx of cases - 66 new communications, compared with eight cases in the previous period (2016 - 2017). The majority of the newly registered cases are against Spain and deal with forced evictions and the right to adequate housing. 62 of the newly registered cases seek interim measures.

In 2018, the Committee considered three communications, two of which were against Ecuador and one was against Spain.

The Committee adopted its Views on the merits in the communication Trujillo Calero v. Ecuador (E/C.12/63/D/10/2015) and declared inadmissible the communications Arellano Medina v. Ecuador (E/C.12/63/D/7/2015) and Martínez Fernández v. Spain (E/C.12/64/D/19/2016).

2018



# Communications Procedure

## **Trujillo Calero v. Ecuador (E/C.12/63/D/10/2015)**

The case was brought by Marcia Trujillo Calero who had made 29 years' worth of retirement contributions to the Ecuadorian Institute of Social Security (IESS), including during the period that she was an unpaid domestic worker looking after her children. Her application for early retirement was denied on the grounds that she did not have the required minimum 300 contributions, because an eight-month pause in voluntary payments (during the period when she was not earning an income) had disaffiliated her from the retirement scheme and hence invalidated all her subsequent payments.

The Committee held that Ecuador violated Ms. Trujillo's rights to social security (Article 9), to non-discrimination (Art 2(2)) and to gender equality (Art 3), when the IESS denied her early retirement request and that the conditions of the voluntary affiliation imposed on the author, as an unpaid domestic worker, constituted discriminatory treatment in relation to her right to social security.

This decision is important because the Committee set out the minimum State obligations in relation to the right to social security and because it was the first time the Committee addressed the gendered impacts of State policy. In analyzing the link between unpaid care work and gendered access to social security, the Committee applied a 'substantive equality' approach. It noted the discriminatory impact of the law in practice, such that a high proportion of those without access to an old age pension, were women who had devoted a significant proportion of their working life to unpaid domestic/care work. Without an income it's much more difficult for these women to contribute to the contributory pension scheme.

## **Arellano Medina v. Ecuador (E/C.12/63/D/7/2015)**

The case concerned allegations that a former employer refused to pay the severance pay due to a former employee under a collective labour agreement and failed to provide minimum occupational health and safety conditions for the handling of hazardous chemicals.

The Committee declared the communication inadmissible on the grounds that the author failed to demonstrate that there had been a violation of Covenant rights. The author's claims were declared to be manifestly ill-founded and not sufficiently substantiated. In addition, the Committee found that the author had not exhausted all available domestic remedies.

## **Martínez Fernández v. Spain (E/C.12/64/D/19/2016)**

The case concerned the right to housing and specifically the eviction from a dwelling occupied without legal title. The Committee declared the case inadmissible on grounds that the author's claims were manifestly ill-founded and not sufficiently substantiated due to the failure to show any violation of rights under the Covenant.

# Communications Determined in 2018

Communication Name	Document No.	Communication No.	State party	Right(s) Invoked	Finding/Outcome
Trujillo Calero	E/C.12/63/D/10/2015	010/2015	Ecuador	Right to social security (Art.9); exercise of Covenant rights without discrimination; equal right of men and women (Art. 3)	Violation of the right to social security (Art. 9), non-discrimination (Art.2(2)) and to gender equality (Art.3)
Martínez Fernández	E/C.12/64/D/19/2016	019/2016	Spain	Right to adequate housing (Art.11)	Inadmissibility Decision under Art. 3 (2) (e) of the Optional Protocol
Arellano Medina	E/C.12/63/D/7/2015	007/2015	Ecuador	Right to work (Art .6); occupational health and safety conditions (Art 7b); right to health(Art. 12)	Inadmissibility Decision under Art. 3 (1) and 3 (2) (e) of the Optional Protocol

# Working Methods

## Follow-up Procedures

The Committee decided to amend its follow-up procedure for Concluding Observations, so that States now must provide their follow-up report within 24 months of the concluding observations, rather than 18 months. NGOs can provide written information regarding follow-up within 24 months of the concluding observations or within 1 month of the State's follow-up report being made public. These changes were made to align with other treaty bodies. The Committee's revised follow-up procedure commenced operation in 2017. Therefore, the first of those States to undergo the revised procedure will be considered at the first session in 2019.

## Simplified Reporting Procedure

In 2018, the Committee considered the reports of the first States to undergo the 'simplified reporting procedure' (SRP): Spain and New Zealand.

The SRP is a pilot exercise intended to streamline the reporting process and ensure a more focused review. The Committee described the first experience of the SRP as positive and decided to extend it to other States who have a long reporting history with the Committee.

At least 9 States have taken up the Committee's invitation to utilise the SRP. States following the SRP for their next review are: Belarus, Belgium, Norway, Ukraine, Austria, Finland, Chile, Italy and Mongolia.

## Meetings with other UN experts and bodies

The Committee met with:

- the Human Rights Committee to explore ways of improving collaboration especially on state reporting and duplication of work among the treaty bodies;
- other Committees (eg: the Committee on the Rights of the Child) to discuss issues relating to corruption;
- members of the European Committee on Social Rights.

## Meetings with States Parties

The Committee held informal meetings with States during each of its sessions. States were invited to discuss with the Committee issues of common interest and concern. The Committee gave an update on the follow-up procedure, the simplified reporting procedure pilot exercise, its work on general comments, the communications procedure and its views on the 'treaty body strengthening process'.





# Day of Discussion: the Right to Science

In October 2018, the Committee devoted one day to discussion of the right to enjoy the benefits of scientific progress under Article 15 of the Covenant, as part of its elaboration of a new General Comment. The General Comment is intended to focus on article 15(1)(b) '*and on other provisions of article 15 on the relationship between science and economic, social and cultural rights*'. The Discussion Day was open to all stakeholders and was attended by States, civil society, NHRIs, UN agencies and academics.

The programme commenced with opening remarks by the Rapporteur, Mr Mike Mansicidor. The discussion proceeded with a panel on: the normative content of the right to enjoy the benefits of scientific progress and its applications. The panelists raised issues such as the nature of the interest in science between private and public entities and the relationship with achieving the Sustainable Development Goals.

On science's relationship to other rights, the second panel discussed how science is an important instrument in creating an enlightened citizenry that would be better equipped to resist extreme versions of cultural and religious rights that were incompatible with scientific progress. Some stressed that the right to science should be extended to promote the rights of poor and marginalized groups who are otherwise left out by private market forces that drive science.

In the discussion of competing rights and limitations, panelists noted that a 'beneficial' interpretation of the right to science should be emphasised, because science remains at risk of misapplication and manipulation, which could negatively impact privacy, morality and the well-being of people's bodies through elements like the internet, biotechnology and sterilization. The final panel considered the scope of State obligations.

The next steps in the process are for the Committee to reflect on all the inputs and prepare a first draft of the General Comment. The first draft will then be made available for further consultation through written submissions to the Committee. The Committee will then refine the draft, undertake a final reading in closed session and proceed to adopt the document.

Further information is available on the Committee's [website](#).



# The Global Initiative

*for* Economic, Social and Cultural Rights

## **Geneva Office**

**c/o International Service  
for Human Rights  
Rue de Varembe 1P.O.  
Box 16CH-1211 Geneva  
20 CIC Switzerland**

## **Nairobi Office**

**C/O East African Centre for  
Human Rights  
House 4, Cedar  
Court, Timau Road,  
Kilimani, Nairobi, Kenya**

## **Dakar Office**

**C/O COSYDEPSicap Liberté  
Dakar Senegal**

[www.gi-escr.org](http://www.gi-escr.org)

@GIESCR

