



The Global Initiative
for Economic, Social and Cultural Rights

Economic, Social and Cultural Rights
at the 30th session of the Human Rights Council
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The 30th session of the Human Rights Council dealt with ESC and related rights issues such as: **enforced or involuntary disappearances and economic, social and cultural rights; safe drinking water and sanitation; the education of girls; hazardous substances and wastes; indigenous peoples; capacity-building in public health against pandemics; human rights of peasants and persons working in rural areas; and the right to development.**

Enforced disappearances and ESC rights

At this session, the Working Group on Enforced or Involuntary Disappearances presented a study on enforced or involuntary disappearances and economic, social and cultural rights (A/HRC/30/38/Add.5). The report examines not only the effect of enforced disappearances on the enjoyment of economic, social and cultural (ESC) rights, but also the situation of human rights defenders and others who often become victims of enforced disappearances as a consequence of their work on those rights. Additionally, the report seeks to understand how the lack of effective enjoyment of ESC rights is a factor leading or contributing to enforced disappearances. The report emphasises that ESC rights violations are both a cause and consequence of enforced disappearances. It notes the following issues:

- “ The lack of effective protection of certain ESC rights may be a contributing factor to enforced disappearances. Persons who live in poverty and lack the enjoyment of a number of ESC rights are more vulnerable to becoming victims of enforced disappearances. People living in poverty often lack social integration, political recognition and legal and factual protection, which together, could extend to insufficient protection against enforced disappearance. In fact, in many situations of conflict the majority of the victims of enforced disappearance are poor.
- “ There are many reasons that explain the particular vulnerability to enforced disappearance of people who live in poverty. Impoverished people may not seek justice in cases of enforced disappearances because they cannot afford the cost of legal advice, administrative and related fees. In addition, those living in poverty may fear reprisals or



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sanctions from more powerful actors and may not seek justice because of this fear and because of discriminatory practices by the authorities.

- “ The lack of full enjoyment of particular ESC rights also creates an enhanced vulnerability to enforced disappearance. For instance, a basic protection from enforced disappearance is removed when the right to housing is not guaranteed, because people do not have the physical barrier that homes provide against those who may want to harm them. In many conflicts, widespread destruction or State appropriation of homes and property, including forced evictions, has consequently increased exposure to enforced disappearance. States with inadequate legislation to protect tenure security or to provide legal recognition of entitlements to land of indigenous, rural, and ethnic-minority groups may leave them exposed to land-grabbing and forced evictions. Moreover, children in vulnerable situations, undocumented migrants and in some cases persons with mental health problems are also especially exposed to becoming victims of enforced disappearance.
- “ When forcibly disappeared, a person no longer earns wages or has access to employment. Therefore, the disappeared person’s right to work is violated. The violation of the disappeared person’s right to work may continue even after the person has been released, due to the stigma of having been subject to an enforced disappearance or due to mental or physical sequelae of the enforced disappearance.
- “ Many disappeared people are detained in unofficial or secret places of deprivation of liberty, where they may be subject to torture, ill-treatment, sexual violence and other assaults to their physical and psychological integrity. In these circumstances, their right to the enjoyment of the highest attainable standard of physical and mental health is also violated. For those who recover their liberty after being disappeared, the effects of these violations tend to be long-lasting.
- “ Enforced disappearances also impact on the enjoyment of a number of rights of the disappeared person’s family; these include the right to health (long-term trauma and psychological issues), the right to education (due to economic hardship), the right to take part in cultural life, the right to social security, the right to property, the right to family life and the right to housing. These violations appear even more evidently when the person who is forcibly disappeared is the “breadwinner”. The majority of those subject to enforced disappearances are men, often the primary or sole source of income in the family. The family’s right to adequate housing may also be violated because the family may be ineligible to inherit the house they live in without a death certificate for the disappeared person.
- “ The practice of enforced disappearance is often used to repress and intimidate individuals claiming their rights. The Working Group has in its docket several cases where the victims of enforced disappearance were active in exercising or promoting the enjoyment of ESC



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rights, including trade union members, environmentalists, farmers, teachers, journalists and artists. In such cases, enforced disappearance is used as a repressive measure and a tool to deter the legitimate exercise, defence, or promotion of the enjoyment of ESC rights. In regions where land-grabbing is a growing practice, many human rights defenders and protestors against such practices may also become victims of enforced disappearance.

In conclusion, the Working Group highlighted the intrinsic connection between enforced disappearances and ESC rights and reiterated that effective measures to prevent and eradicate enforced disappearances and to provide reparation to the victims require a comprehensive approach that encompasses proper promotion and protection of ESC rights.

Following the presentation of the report, an Interactive Dialogue took place, focusing on the main points of concern in the report. The [Global Initiative on ESC Rights](#) (GI-ESCR) made a statement recalling that defenders of ESC rights (and particularly those advocating on labour rights and on land and environment issues), are among the most at risk human rights defenders. We also underlined the valuable contribution of civil society in: i) monitoring and evaluating State compliance with the Covenant; ii) providing input into policy formulation and service design; and iii) holding decision-makers accountable for their actions.

Lastly, we recommended that States who profess commitment to eradicating enforced disappearances, must acknowledge the preventative potential of protection of ESC rights and give greater attention and support to such rights, and conversely that States who profess commitment to ESC rights, must acknowledge civil society's central role and ensure an enabling environment for civil society, so that they can voice their concerns and critiques of government action without fear of reprisals.

Safe drinking water and sanitation

The Special Rapporteur on the human right to safe drinking water and sanitation, Mr Leo Heller, presented his thematic report ([A/HRC/30/39](#)) on the issue of affordability of water and sanitation services, an issue which has thus far not yet received the attention it warrants. In his report, the Special Rapporteur notes that mainstream policies for water and sanitation have focused on full cost recovery in service provision with lesser emphasis on affordability. According to Mr Heller, it is possible to reconcile the economic sustainability of services and their affordability for all people. Ensuring the affordability of water and sanitation services requires an effective legal and policy framework, which includes a strong regulatory system. Where people are unable to pay, the human rights framework requires the provision of free services. The Special Rapporteur recommends that States set affordability standards at the national and local levels and that such standards be established



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through a participatory process, involving people living in poverty and other marginalised and disadvantaged individuals and groups.

The Special Rapporteur then presented his report on his mission to Kenya, in which he encouraged Kenya to adopt the national mandatory minimum standards for the legal content of the rights to water and sanitation, to elaborate regulations aimed at prohibiting water disconnections of those unable to pay, and in law, policy and financing, to prioritise the most marginalised individuals and groups.

During the Interactive Dialogue with States, States noted concerns on the slow advance towards the full enjoyment of the rights to water and sanitation, and highlighted the importance of providing water infrastructure to people both in urban and rural areas. Some States underscored the importance of this issue being part of the Sustainable Development Agenda and some States presented their national efforts to guarantee access to and proper management of water.

The environmentally sound management and disposal of hazardous substances and wastes

Mr. Baskut Tuncak, Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes, presented his thematic report ([A/HRC/30/40](#)) on the issue of the right to information, which is essential to address and prevent human rights impacts of hazardous substances and wastes. The report finds that:

“ Thousands of different hazardous substances have been used by businesses with inadequate information on their properties and uses. The rights of victims to an effective remedy, the right to meaningful participation, the right not to be subjected to experimentation without consent, the right to health and several other human rights have all been frustrated by large information gaps throughout the life cycle of hazardous substances.

“ Rates of cancer, diabetes and other illnesses linked to hazardous substances have been on the rise over the past decades, affecting in particular children, minorities, indigenous people, workers and low-income communities.

However, solutions exist to protect human rights. These require the right to information and the responsibility of businesses, to develop safer alternatives. Information has to be made available to all without discrimination, and States have the duty to generate, collect, assess and update information, effectively communicate it, and ensure confidentiality claims are legitimate. Businesses are responsible for identifying and assessing the actual and potential impact of hazardous substances and communicating information to other businesses, governments and the public effectively.



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Mr. Tuncak also presented his report on his visit to Kazakhstan, in which he noted that the country's economy was overwhelmingly dependent on extractive industries, which presented considerable risks for the population. During the Interactive Dialogue speakers noted that hazardous substances and wastes were a public health issue of global concern, and underlined that the right to information on hazardous waste was crucial in the enjoyment of human rights and fundamental to democratic governance. In addition, speakers emphasized that the human rights impact of hazardous substances disproportionately affected low income or minority groups.

The education of girls

The Human Rights Council convened a panel discussion on realizing the equal enjoyment of the right to education by every girl with a view to sharing lessons learned and best practices in that regard.

In his opening remarks, the High Commissioner for Human Rights stressed that education was a multiplier right that empowers women to make choices and to claim their human rights, including the right to participate fully in the taking of decisions that shape society. He welcomed the considerable progress that had been made in girls' education in recent years, but showed concern about the persistent discrimination against girls, including in the form of child marriage, early pregnancy and sexual violence, and harassment inside and outside schools. Together with social and cultural stereotypes that enforce obedience and fix gender constructs, violence against girls and the targeting of schools by extremist movements continued to impair girls' access to education. The High Commissioner further noted that, as a result of deeply entrenched discrimination, girls continued to be corralled into specific fields of study, which were often not those in high demand on the labour market. Young women, even when well-educated, consistently experienced higher unemployment rates than men, worked in more precarious jobs and were paid less for work of equal value. He eventually called upon States to take urgent measures to ensure that all girls had effective and safe access to education of quality, including human rights education.



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Panelists referred in particular to entrenched socio-cultural norms and stereotypes, which dictate gender relations in the family, including the allocation of resources within the family and determining what a given generation considers appropriate



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gender roles. This often results in gender inequalities, including in the area of access to schooling and participation in the formal work force, with women being disadvantaged. One of the panelists recommended that States provide stipends and scholarships, and free or subsidized childcare for girls with children, as well as income transfer programmes for poor families, so that girls are not removed from schools for economic reasons. This panelist also recommended that schools be constructed locally and closer to communities as a means to increase enrolment and to lower the indirect costs of sending girls to school. Lastly, a number of speakers referred to the [Safe Schools Declaration](#), which focuses on education for children in conflict situations, signed to date by [49 States](#).

Indigenous peoples

The September session of the Council is traditionally the session for discussion on indigenous peoples, including the meeting of the Expert Mechanism on the Rights of Indigenous Peoples (EMRIP). The Council held its annual half-day discussion on the rights of indigenous peoples. The panel was an opportunity to discuss the review of the mandate of the EMRIP, the Council's examination of the causes and consequences of violence against indigenous women and girls, the participation of indigenous peoples in United Nations processes, and the UN system-wide action plan for the achievement of the ends of the [Declaration on the Rights of Indigenous Peoples](#).



During the discussion, contributions were heard from Governments, indigenous peoples, NGOs and academics. Speakers said that the systemic violation of the rights of indigenous peoples in some parts of the world continued, violence against indigenous women was pervasive in many countries, while the increasing arrival of foreign investments into many countries further exacerbated the loss of land and resources of indigenous peoples and led to significant environmental destruction of their territories. They welcomed concerted global efforts to fully make the Declaration on the Rights of Indigenous Peoples a reality, and supported the recommendation to the UN Secretary-General to develop a system-wide action plan to ensure a coherent approach to achieving the ends of the Declaration.

Speakers underlined the importance of the implementation of the outcome document of the World Conference on Indigenous Peoples through national plans of action,



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highlighted the importance of States engaging actively with indigenous peoples in the elaboration of such plans, and inquired about mechanisms which could improve indigenous peoples' ownership of development. The review of the mandate of EMRIP should be conducted carefully to avoid a negative impact on other existing mechanisms, and the new mandate could assist States to better implement Universal Periodic Review recommendations related to indigenous peoples. [More information about the panel discussion on indigenous peoples](#) is available here.

Ms Victoria Tauli Corpuz, the [Special Rapporteur on the rights of indigenous peoples](#), presented her report on the situation of indigenous women and girls ([A/HRC/30/41](#)) who experience complex, multidimensional and mutually reinforcing human rights violations. According to the report, such human rights violations are alarming on their own, and constitute a form of structural violence. The lack of disaggregated data, the lack of inclusive birth registration systems and the culture of impunity are among the main challenges in that regard. The protection of the rights of indigenous women and the development of a multidimensional approach are needed. An interactive discussion followed the presentation of the report, gathering contributions from States and civil society organisations.

Capacity-building in public health against pandemics

The Human Rights Council adopted the Presidential Statement “Promoting the right of everyone to the enjoyment of the highest attainable standard of physical and mental health through enhancing capacity-building in public health against pandemics” ([A/HRC/PRST/30/2](#)). This was an initiative that China put forward initially in March in response to the Ebola crisis. The President of the Council expressed deep concern at the outbreak of Ebola and its grave humanitarian, economic and social consequences, and deplored the loss of lives and the wide social and economic impact caused by other pandemics, such as HIV/AIDS, tuberculosis and malaria, including non-communicable diseases. He recognised the need to strengthen resilience and to promote integrated national health systems aimed at ensuring universal access to quality health-care services, universal health coverage, social infrastructures and services, to reinforce measures to eliminate discrimination of any kind. In this regard, he called for the development of resilient and sustainable health systems, including through national efforts and international cooperation, with a view to accelerating the transition towards universal access to quality health-care services and universal health coverage in such a way as to promote uninterrupted, affordable and accessible quality health-care services for all and to prevent large-scale pandemics. He lastly recognized the vital and complementary role of civil society in responding to pandemics.



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The promotion and protection of the rights of peasants and persons working in rural areas

The [open-ended intergovernmental working group](#) on the draft United Nations declaration on the rights of peasants and other people working in rural areas presented its update report to the Council. The report incorporates the content of the two panel discussions held during the second session of the working group: the panel on civil, political, ESC rights of peasants and other people working in rural areas and gaps; and the panel discussion on the rights of peasants in other international instruments and gaps.

In addition, a resolution on the *Promotion and protection of the human rights of peasants and other people working in rural areas* (A/HRC/30/L.19) was submitted by Bolivia, Cuba, Ecuador, South Africa, and adopted after a vote (31 Yes/ 1 No / 15 Abstentions).

The Right to Development



A resolution on the *Right to Development* ([A/HRC/RES/30/28](#)), submitted by Iran (on behalf of the Non-Aligned Movement) was adopted after a vote (33 Yes / 10 No / 4 Abstentions). In this resolution, the Human Rights Council reaffirmed the [Declaration on the Right to Development](#), recognised the

renewed commitments to achieve the remaining Millennium Development Goals, welcomed the adoption of 2030 Agenda for Sustainable Development and emphasised that the right to development should be central to its implementation. It further recognised that extreme poverty and hunger are one of the greatest global threats and require the collective commitment of the international community for their eradication.



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In addition, the resolution stresses the primary responsibility of States for the creation of national and international conditions favourable to the realisation of the right to development, and encourages all States to constructively engage in the discussions for the full implementation of the Declaration with a view to overcoming the existing political impasse within the [Working Group on the Right to Development](#). Finally, the resolution recalls that the 30th anniversary of the Declaration on the Right to Development presents a unique opportunity for the international community to demonstrate and reiterate its unequivocal commitment to the right to development, recognising the high profile it deserves, and redoubling its efforts to implement this right.

Special Procedures Communications report

The Communications Report (A/HRC/29/50) provides information about Communications (including urgent appeals, letters of allegations and other letters) sent by Special Procedures, between 1 March and 31 May 2015 and replies received between 1 May and 31 July 2015. It does not report on all complaints received by Special Procedures mandate holders.

As in the past, the majority of Communications relate to civil and political rights violations and mandates. Again the Human Rights Defenders mandate sent the greatest number of Communications (39) and not far behind were the mandates on Peaceful Assembly (36), Torture (35), Freedom of Expression (34), and Summary Executions (31).

The highest number of Communications sent by an ESC rights mandate was 19 sent by Health, followed by Adequate Housing (6) and Toxic Waste (3). The 2 women's rights mandates sent a reasonable number of communications: Violence Against Women with 8 and the Working Group on Discrimination Against Women in Law and Practice with 19. Given the frequency with which we hear of violations relating to business, it is a little surprising that no communication was sent by the Working Group on business and human rights.

However, as some Special Procedures mandate holders have pointed out, the number of Communications sent is not necessarily a measure of the importance of the right or the impact of the Communications. Sometimes fewer, more thorough Communications with substantial follow-up is more impactful than more Communications with no follow-up.

To give a flavour of the kinds of ESCR issues emerging from Communications here is a sample of Communications:

“ Discrimination and Violence against women / Right to Health - Against India in relation to unsafe, substandard and unethical sterilisation camps resulting in medical complications and deaths of several women.

“ Right to Education / Disability - Against France in relation to the denial of the right to education and threats of forced institutionalisation of a child with autism.



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- “ Adequate Housing / Indigenous Peoples - Against Cambodia in relation to forced eviction and land appropriation of Bunong indigenous community by a rubber company supported by armed police officers.
- “ African descent / Right to Health / Toxic Waste - Against the US relating to the suffering of members of a family from the adverse impact of toxic mercury which was used as a form of treatment for a sexually transmitted disease in the Rosenwald Fund Study.
- “ Adequate housing / Extreme poverty / Water and Sanitation - Against the US in relation to large-scale disconnection of water services disproportionately affecting poor African-American or Black households in the city of Baltimore.
- “ Indigenous peoples / Toxic waste - Against Peru in relation to a case of oil pollution in indigenous territories (also the subject of recommendations by the former Special Rapporteur on Indigenous Peoples, Mr James Anaya).

New Mandate holders

The Council elected three mandate holders by acclamation: [Karima Bennoune](#) (United States) as the Special Rapporteur in the field of cultural rights; Ahmed Reid (Jamaica) as a Member of the Working Group of experts on people of African descent; and Henrikas Mickevicius (Lithuania) as a Member of the Working Group on enforced or involuntary disappearances.



Karima Bennoune