

ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE CONTEXT OF COVID-19

GUIDANCE PACKAGE (DRAFT)

PART I: SUMMARY OF KEY MESSAGES

A. OVERVIEW

The pace at which the outbreak of the new coronavirus has advanced, reaching most of the countries of the world in just a few short weeks, has caught many countries unprepared for the multifaceted challenges it has brought. On 31 December 2019, China notified the World Health Organization (WHO) of the emergence of a cluster of cases of an unknown form of pneumonia, initially concentrated in Hubei Province, Wuhan. Subsequently named SARS-Cov-2, the new pathogen causes a respiratory disease (COVID-19), which has infected more than 2.7 million people, caused close to 200 000 deaths and is overwhelming health systems capacity even in affluent countries.¹ WHO declared the outbreak a Public Health Emergency of International Concern on 31 January 2020; with few exceptions, all countries are now affected and, on 11 March 2020, the WHO declared the COVID-19 outbreak a pandemic.

Initially, in response to the outbreak, a handful of countries responded by imposing travel restrictions, most of them directed at travellers arriving from China. Many have now adopted different measures restricting the movement of people, goods and services in an effort to curb the spread of COVID-19. Several governments have imposed what are now commonly referred to as “lockdowns” in one form or another. While more stringent in some countries than in others, a common feature of these lockdowns is the closing of schools and businesses deemed non-essential, and exhortations or directives for people to remain in their homes. Confined to their homes, many who are employed in these businesses or in the informal sector and who are unable to work remotely, have lost income and/or jobs.

The COVID-19 pandemic poses an unprecedented threat to societies worldwide. The human toll the disease continues to exact has exposed the weakness of a political, economic and social system which has long neglected to prioritize and give effect to the progressive realization of economic, social and cultural rights and to ensure that essential public services, including comprehensive health care and social protection systems, are available and accessible to all without discrimination.

Prior to the COVID-19 pandemic, many populations and groups were already experiencing persistent marginalization and multiple and intersecting forms of discrimination based on specific factors such as income, location, caste, race, ethnicity,

¹ For updated information, see <https://coronavirus.jhu.edu/map.html>.

religion, sexual orientation and gender identity, stigmatized or criminalized livelihoods (sex and begging industries), and the general denial of many human rights. These include persons with disabilities, older persons, persons living in informal settlements, women, migrants, refugees and persons in detention. In addition to these populations and groups, individuals and households living on the poverty line, especially as a result of discrimination and increasing inequality, are also at risk of sinking into even further levels of deprivation. The COVID-19 crisis is exerting an enormous and disproportionate negative impact on these individuals and groups, and the response to the crisis needs to take into account multiple and intersecting forms of discrimination and inequalities, including persistent gender inequality. States have a responsibility to ensure that everyone is protected, as much as possible, from contracting COVID-19 and from its impact. This requires human rights based socio-economic measures, including special measures and protection for particular groups most at risk or disproportionately impacted.

B. KEY MESSAGES

RIGHT TO HEALTH

COVID-19 is a global health crisis on a scale which has demonstrated the structural weaknesses in many health systems. In addition to long-term health worker shortages around the world, medical equipment is in short supply in most parts of the world where the pandemic has taken a firm hold. Access to other essential health services has also fallen drastically as the focus has shifted to treating COVID-19. Health workers are at a high risk of infection due to the inadequate supply of good quality personal protective equipment (PPE), and they account for an important proportion of the number of people infected.

Key messages:

- ⇒ *Ensure that health facilities, goods and services, including early testing and treatment for COVID-19 and other essential services such as sexual and reproductive health, HIV and cancer treatments, are available, physically accessible and affordable to all, without discrimination.*
- ⇒ *Put in place measures to ensure that health services reach marginalized groups, to mitigate the impact of the pandemic on them and to address structural, legal and administrative barriers to access.*
- ⇒ *With a view to protecting the rights of health workers and auxiliary personnel involved in the COVID-19 response, States should take urgent steps to ensure: (a) the distribution of adequate amounts of high quality PPE; (b) the availability of mental health support services, (c) readily accessible channels of recourse for personnel seeking to enforce their right to the provision of PPE.*

RIGHTS TO WATER AND SANITATION

Access to safe water and sanitation is a key protection against the COVID-19 pandemic. Billions across the world still do not have access to these basic human rights, because of inequalities and entrenched discrimination based on factors such as gender, ethnicity, culture and socioeconomic status. Limited access to water and poor sanitation leads to a vicious cycle of increased infection risk, poor health outcomes and a poor standard of living.

Key messages:

- ⇒ *Develop and implement targeted measures, including emergency measures, to ensure continued and increased access to water and sanitation, with particular attention to marginalized groups.*
- ⇒ *Develop and implement targeted measures, including emergency measures, to ensure continued and increased access to water and sanitation, with particular attention to marginalized groups. These may include:*
 - *Identifying specific groups that are most at risk due to a lack of water and sanitation services and ensuring that they gain access immediately through removing barriers and extending services;*
 - *Ensuring the availability of water and sanitation services in all healthcare facilities;*
 - *Temporary suspending utility charges including water and sanitation;*
 - *Developing gender-specific policies and programmes targeting female-headed households and women who are at high risk, including health and care workers, where women represent the majority.*
- ⇒ *Promote hand washing and hygiene practices at all levels, including through a nation-wide campaign and ensuring that information is accessible and adapted to the needs of specific groups such as persons with disabilities, older persons, indigenous peoples and minorities.*

RIGHTS TO WORK AND SOCIAL PROTECTION

Around the world, due to limitations placed on freedom of movement to curb the spread of COVID-19, many people have lost their jobs, income or livelihood, particularly those working in the informal sector. For some, the right to occupational health and safety has been violated as many are working in unsafe conditions - as demonstrated by the high rates of infection among health personnel.

The crisis is having a more significant impact on those who have no access to social protection, a group which overwhelmingly includes women and children. Despite progress in the extension of social protection in many parts of the world, the human right to social protection is not yet a reality for the majority of the world's population. Seventy-one per cent of the global population is either not covered, or only partially covered, by social security systems. Human rights based social protection measures represent a critical tool for facilitating access to health care, protecting people against poverty and ensuring the satisfaction of basic economic and social rights, including food, water, housing, health and education.

Key messages:

- ⇒ *Ensure the occupational health and safety of those who continue to work, in particular workers in the health, agriculture, food production and transport sectors and cleaning services, including by providing the necessary protective equipment.*
- ⇒ *Develop social protection measures in the COVID-19 response that contribute to gender equality, protect marginalized groups first; these measures should be developed and implemented through a participatory process which respects the right of individuals to seek, receive and impart information on all social security entitlements in a clear and transparent manner.*

- ⇒ *Develop and implement short-term emergency measures with a view to extending social protection coverage and protecting people from the longer-term impacts of the pandemic as well as future shocks, including through minimum income for all, universal health coverage and universal social protection.*

RIGHT TO FOOD

The COVID-19 crisis and measures taken as part of the response are disrupting the food production and supply chain. This can further exacerbate the current and already alarming levels of food insecurity. According to FAO, more than 820 million people in the world already suffer from hunger. Two billion people in the world have no access to adequate food, defined as having physical and economic access at all times to sufficient, adequate and culturally acceptable food. These people face greater risk of malnutrition, poor health and are more vulnerable to health complications associated with the COVID-19.

Key messages:

- ⇒ *Devise targeted measures to support small-scale farmers and fishers, especially women, through financial support, access to credit, land, natural resources and technology to ensure their livelihood and to protect everyone's right to food.*
- ⇒ *Put in place measures aimed at providing immediate support to satisfy people's specific dietary needs, including through the provision of food and nutrition assistance and livelihood, especially for the most marginalized, including women, persons with disabilities, older persons, children, ethnic and racial minorities.*
- ⇒ *Ensure the mobility and safe working conditions of agriculture workers to secure food production.*

RIGHT TO ADEQUATE HOUSING

Adequate housing has become an important frontline defence against the pandemic, given the widespread adoption of lockdown measures and physical distancing rules around the world. At the same time, the pandemic has laid bare the pre-existing and vast structural inequalities in housing systems all over the world, characterized globally by the increased unaffordability of housing and the lack of available public housing stock. Due to the downturn in the formal and informal economy, housing affordability and habitability are at increased risk. Many households are at risk of not being able to pay rent, mortgage arrears or utility bills. Still others may face cuts to their water, electricity or telecommunications services.

Key messages:

- ⇒ *Ensure that measures taken during and after the crisis prevent evictions and homelessness. Governments should take this opportunity to ensure that housing systems are sustainable, human rights based and resilient.*
- ⇒ *Prohibit evictions and the threat of eviction due to arrears of rental, mortgage or utility payments during the pandemic period and for a reasonable period thereafter. Evictions or foreclosures scheduled before the pandemic commenced should be suspended.*
- ⇒ *Provide accommodation immediately to all homeless people living 'rough' or on the streets with a view to transitioning them to permanent housing so that they do not return to a situation of homelessness once the*

pandemic is over. This may require procuring hotel or motel rooms, or repurposing buildings such as army barracks, or unused hospitals.

- ⇒ *Cease the forced eviction or dismantling of encampments of homeless people and recognize that in some instances encampments may be safer than other available accommodation, such as shelters.*

RIGHT TO EDUCATION

The widespread closure of schools is deepening inequalities and broadening the learning gap between children who have resources, access to computers and internet networks and those in overcrowded accommodation, living in informal settlements or remote areas and those with disabilities who require adapted materials. The lockdown has also generated additional risks which impact the most vulnerable including disruption of access to food for children and increased economic costs for parents. In some parts of the world, school closures result in the disruption of education, an increased risk of economic exploitation and abuse, and additional burdens on girls since they may be expected to take on increased care work at home.

Key messages:

- ⇒ *Increase budget allocations for emergency measures in the education sector to ensure that continuity of learning, in particular for compulsory education, is guaranteed and affordable to all learners without discrimination.*
- ⇒ *Support the continuity of learning using distance-learning methods, with high-technology or low-technology such as telephones and printed materials as public schools in a number of developing countries do not have access to internet. State support should include subsidies for internet or telecommunications services. Particular support should be provided to household with low-literacy and other vulnerable groups such as migrants.*
- ⇒ *Ensure continued access to food for children enrolled in schools through social security schemes.*

PART II: GUIDANCE

A. CHALLENGES FOR ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE COVID CRISIS

The aim of this note is to identify some of the most pressing challenges for economic, social and cultural rights and to provide guidance for advocacy, primarily with States, within this framework. As such, it should be read in conjunction with specific guidance, already issued or under development by OHCHR, relating to specific thematic areas or the rights of specific groups and populations.

Worldwide, the level of enjoyment of economic, social and cultural rights for the most marginalized and disadvantaged was already inadequate prior to the COVID-19 outbreak. The COVID-19 crisis has demonstrated the wide gap between States' human rights commitments and the effective fulfillment of economic, social and cultural rights for all. This divergence also signals deficits in progress, some of which are outlined below, towards achieving specific goals under the 2030 Agenda for Sustainable Development, which commits to leaving no one behind and to reaching first those who are furthest behind.²

- ✓ More than half of the global population lacks access to adequate essential health care. There are wide disparities between regions and among populations: 56 per cent of the global rural population (with Africa representing the greatest proportion), compared to 22 per cent of the urban population, lack health coverage. Populations in low-income countries have less ready access to essential health services. A clear indicator of deficits in health coverage, catastrophic health expenditure affects a larger proportion of the population in middle-income countries than in low- or high-income countries. Available data from 2013 to 2018 indicate that close to 40 per cent of all countries had fewer than 10 medical doctors per 10,000 people.
- ✓ Billions of people still lack safe water, sanitation and handwashing facilities. According to the [latest estimates](#): 40 per cent of the world's population, or 3 billion people, do not have handwashing facilities with water and soap at home; nearly three quarters of the people in least developed countries lack basic handwashing facilities at home; 47 per cent of schools lacked handwashing facilities with water and soap, affecting 900 million school-age children; over one third of schools worldwide and half of schools in the least developed countries have no place for children to wash their hands at all; and 16 per cent of healthcare facilities, or around 1 in 6, have no hygiene service, meaning they lack hand hygiene facilities where patients receive care, as well as soap and water in toilet facilities.
- ✓ Eight per cent of the world's workers and their families still lived in extreme poverty in 2018 despite being employed. In sub-Saharan Africa, the share of working poor stood at 38 per cent in 2018. More progress is needed to increase employment opportunities, particularly for young people, reduce informal employment and the gender pay gap and promote safe and secure working environments to create decent work for all.
- ✓ As of 2018, up to 4 billion people lacked social protection cash benefits of any kind. Social protection systems help prevent and reduce poverty and provide a safety net for the vulnerable. However, social protection is not a reality for a large majority of the world's population. Seventy-one per cent of the global population is either not covered, or only partially covered, by social security systems. Only 22 per cent of unemployed persons receive unemployment cash benefits, only 28 per cent of persons with severe disabilities receive disability cash benefits,

² See Special edition: progress towards the Sustainable Development Goals, Report of the Secretary-General (E/2019/68), paras. 22 *et seq.*

only 35 per cent of children worldwide enjoy effective access to social protection and only 41 per cent of women giving birth receive maternity cash benefits.

- ✓ World hunger is on the increase: One person in nine, approximately 820 million people, suffered from hunger in 2018, up from 784 million in 2015, and 2 billion are food insecure. As recently reported by the World Food Programme, 135 million more people are facing imminent hunger, with a further 130 million threatened with starvation as a result of the COVID-19 pandemic.³
- ✓ In today's rapidly urbanizing world, at least 1 billion people live in informal settlements where living conditions are often grossly inadequate, without access to on-site water or sanitation, are over-crowded, and face the constant threat of forced eviction. In 2016, 9 in 10 people living in urban areas still breathed air that did not meet air quality guidelines set by WHO.
- ✓ Many developing countries still lack the basic infrastructure and facilities which provide effective learning environments. In Sub-Saharan Africa, at the primary and lower secondary levels, less than half of schools have access to electricity, the Internet, computers and basic drinking water. 262 million children and youth aged 6 to 17 were still out of school in 2017, and more than half of children and adolescents are not meeting minimum proficiency standards in reading and mathematics. The learning environment, the capacities of teachers and the quality of education have not kept pace with rapid technological advances and more needs to be done to augment learning outcomes for all, especially for women, girls and marginalized people in vulnerable settings.

B. INTEGRATING ECONOMIC, SOCIAL AND CULTURAL RIGHTS INTO COVID-19 RESPONSES

OVERVIEW OF STATE OBLIGATIONS

In order to meet the challenges ahead, States will need to step up their efforts to close the divide between commitment and the achievement of tangible, substantial results. The International Covenant on Economic, Social and Cultural Rights (ICESCR), the main human rights instrument that guarantees economic, social and cultural rights, contains no derogation clause, and applies even in times of conflict or during emergencies such as the COVID-19 crisis. In times of crisis, particularly, the protection of economic and social rights can help to prevent the escalation of social unrest and conflict.⁴

State obligations in respect of economic, social and cultural rights may be summarized as follows:

a) *Progressive realization*

States are required to take deliberate, concrete and targeted actions, using their maximum available resources, including through international assistance, to progressively achieve the full realization of these rights. The obligation of progressive realization means a pattern of continuous and sustained improvement which entails the obligation to ensure a broader enjoyment of the rights over time.

³ See WFP Statement to the UN Security Council, 21 April 2020, available at: <https://www.wfp.org/news/wfp-chief-warns-hunger-pandemic-covid-19-spreads-statement-un-security-council>.

⁴ There is increasing evidence that violations of economic, social and cultural rights are causes, consequences and often even predictors of violence and conflict: OHCHR Early warning and economic, social and cultural rights, methodological framework:

https://www.ohchr.org/Documents/Issues/ESCR/EarlyWarning_ESCR_2016_en.pdf.

b) *Minimum core obligations*⁵

Although the ICESCR envisages the progressive realization of economic, social and cultural rights, States are still required, with immediate effect, to ensure the enjoyment of minimum essential levels of each right. They are called *minimum core obligations*, and the obligation that attaches to them is non-derogable, even in adverse circumstances, and budgets should be ring-fenced to ensure that essential goods and services are universally accessible.

c) *Use of maximum available resources*

Article 2(1) of the ICESCR stipulates that States have a duty to use their maximum available resources for the progressive realization of economic, social and cultural rights. In situations of serious crisis such as the present one, where there is a severe deficit in revenue, governments may seek to circumvent this obligation by asserting that there are no resources available for the protection of economic, social and cultural rights. In order for a State to be able to attribute its failure to meet its minimum core obligations to a lack of available resources, it must demonstrate that every effort has been made to use all resources that are at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations. Even if a State clearly has inadequate resources at its disposal, it should still introduce low-cost and targeted programmes to assist those most in need so that limited resources are used efficiently and effectively. In addition to meeting core obligations, maximum available resources must be fully used to progressively realize all levels of human rights in a way that guards against retrogressive steps.⁶

d) *Prohibition of retrogressive measures*

The duty to progressively fulfil economic, social and cultural rights implies a prohibition of measures that would diminish the current enjoyment of rights. For example, States must ensure that their policies and measures do not undermine access to health care or social security benefits either by allowing increases in out-of-pocket health expenses or introducing restrictions to eligibility criteria for social benefits.

e) *Prohibition of discrimination*

This prohibition of discrimination goes beyond a negative duty to avoid overtly discriminatory practices and covers laws, policies and practices which are discriminatory in effect, irrespective of intent. Respecting the principle of non-discrimination requires specific measures to ensure the protection of the rights of marginalized populations and groups as a matter of priority and, even when resources are severely limited, the State has a duty to adopt measures to protect those most at risk.⁷ Such measures may include taxation and social transfers to mitigate inequalities that arise or are exacerbated in times of crisis.

FOCUS ON MAXIMUM AVAILABLE RESOURCES AND MINIMUM CORE OBLIGATIONS

The COVID-19 outbreak has demonstrated the very significant human and financial resource constraints under which many health systems have been operating. Underinvestment has also affected the housing, water, education and food sectors. The situation was greatly aggravated by a swathe of austerity measures adopted by many countries in response to the global financial crisis of 2008, a common feature of which included crippling cuts to social sector funding. To address the immediate impact of COVID-19 and measures taken in response, sufficient resources tied to a coherent, inclusive, and adequately resourced strategy and plan of action should be deployed, on an urgent basis, to health, education, food, social protection, water and sanitation and housing, among key sectors. In addition, as international financial institutions and donors make additional funds available and implement debt service relief during the pandemic, respecting minimum core

⁵ For a more detailed outline of core obligations, please refer to Part III of this document.

⁶ CESCR, General Comment No. 13, para. 45; CESCR, General Comment No. 19, para. 42.

⁷ CESCR, General Comment No. 15, para. 12.

obligations will ensure that these resources are channeled towards protecting economic, social and cultural rights, including the rights to health, social protection, adequate housing, water and sanitation, education and adequate food.

Recommendations:

- Assessment of the economic and social rights measures required as part of the response to the pandemic,⁸ using disaggregated data to identify priorities, disparities in and barriers to access to health care, social protection and other economic, social and cultural rights, patterns of discrimination, under-served areas, and populations or groups who face persistent discrimination and marginalization.
- Development of a fully costed strategy and plan of action addressing the minimum core obligations applicable to the rights to health, social security, water, housing and education as well as key gaps identified in the above assessment.
- Ensuring the meaningful participation of all stakeholders in the planning process at national and subnational levels, with specific measures to secure the inclusion of marginalized groups and populations.
- Establishment of participatory budget formulation and review processes involving the representation of all stakeholders.
- Allocation of adequate resources, including resources available through international cooperation, towards meeting the minimum core content obligations and other requirements, making sufficient provision for ensuring accountability, data collection capacity and budget monitoring.

FOCUS ON DATA COLLECTION

The collection of comprehensive, disaggregated data helps to fulfil the right to information and is part of a human rights-based approach to health, education, work, social protection, housing and water.⁹ Data should be disaggregated by income, age, gender, geographic region, race, ethnicity, education, wealth quintile and other distinctions as locally relevant.¹⁰ Besides providing information on the prevalence and incidence of COVID-19, disaggregated data will assist in identifying disparities in and barriers to access to health care and social protection, patterns of discrimination, under-served areas, priority health problems, and populations or groups who face persistent discrimination and marginalization. Consequently, key information which should emerge includes the identity and size of populations and groups who have been or are at increased risk of being left behind in the COVID-19 response and the barriers they face in realizing their economic, social and cultural rights.

The relative “invisibility” of certain groups, due to a failure to adequately disaggregate data or to count these groups altogether, is a significant concern in some responses to the pandemic. The UK’s National Health Service, for instance, recently launched its Coronavirus Status Checker database, which does not collect information on the sex of respondents. Current case tallies frequently fail to take account of COVID-19-related deaths which occur outside of hospital settings. Although the number of deaths among older persons in care homes is among the highest of any demographic group, a

⁸ Suggested measures are included as a non-exhaustive guide to aid this process.

⁹ CESCR General comment No. 14, paras. 16, 20 and 57.

¹⁰ See also CESCR General comment No. 14, para. 20.

significant degree of under-reporting in some countries has hampered efforts to arrive at a complete understanding of how COVID-19 has impacted this population.

Recommendations:

- Allocate adequate resources for the expansion and institutionalization of data collection capacity.
- Ensure the free, active and meaningful participation of relevant stakeholders, in particular the most marginalized population groups, through the entire data collection process (strategic planning; selecting and testing an appropriate collection methodology; data storage, dissemination, analysis and interpretation).¹¹
- Analyse, disseminate and use disaggregated data for policy formulation, impact evaluation, programming and information sharing on good practices.
- Develop stakeholder capacity, particularly at the community level, for data collection.

FOCUS ON ACCOUNTABILITY

Accountability from a human rights perspective means that the State, or those in authority, must be held accountable to the population affected by their decisions and actions. It is a complex, multidimensional concept, and human rights-based accountability requires numerous forms of review and oversight, and the fostering of the accountability of multiple actors at various levels, both within and beyond the social sectors.¹² Accountability cuts across all areas of policy design, implementation, monitoring and review. Strengthening accountability as a core pillar of good governance and in fulfilment of duty bearers' obligations to rights holders offers important opportunities for the realization of health and human rights.¹³ Crucially, accountability demands the availability of readily accessible avenues of redress (judicial or quasi-judicial) where breaches of economic, social and cultural rights have been committed. It is also linked to transparency, including in the use of financial resources.

Recommendations:

- Establish and/or strengthen transparent, inclusive and participatory processes and mechanisms, with jurisdiction to recommend remedial action, for independent accountability at the local and national levels within the health, social protection, housing and justice systems.¹ These include courts or quasi and non-judicial bodies, complaints mechanisms, national human rights institutions and professional standards associations.
- Establish transparent and publicly accessible tools to track financial allocations and expenditures from economic stimulus packages, grants from donors, loans from international financial institutions, and funds re-allocated from debt service payments due to debt service relief, including to the communities most left behind.
- Ensure prompt access to justice mechanisms for health personnel and other workers operating in high-risk environments to address concerns relating to the lack of personal protective equipment (PPE) and other occupational health and safety dimensions.

¹¹ OHCHR, A Human Rights-Based Approach to Data, 2018, p.8.

¹² In relation to health especially, see: A/HRC/38/37, para. 37.

¹³ WHO, *Leading the realization of human rights to health and through health: report of the High-Level Working Group on the Health and Human Rights of Women, Children and Adolescents* (2017), p.7.

C. RIGHTS IN FOCUS

THE RIGHT TO HEALTH

a) Health services

Access to quality health care has been undermined in many countries by poor health infrastructure and by a shortage of trained health personnel and medical equipment and supplies such as PPE, diagnostics and ventilators. Socioeconomic determinants of health, such as inequality, discrimination and poverty also play a major role. For affected populations and groups, social and economic exclusion is frequently aggravated by the contemporaneous impact of multiple intersecting forms of discrimination, which may be based on age, gender, ethnicity, migration status, sexual orientation, disability or health status and be perpetuated through harmful gender, cultural or social norms, and stigma. Vulnerable populations and groups, including migrants, refugees, older persons, persons with disabilities and women, are at risk of being left behind in the design of the health responses to COVID-19 and in access to health care and other necessary support services. Similarly, access to health services for needs other than treatment for COVID-19 has been affected in many countries as priorities shift towards addressing the pandemic.

Occupational conditions for health personnel frequently fall well below those required for their health and safety. The health worker deficit means that working hours are inordinately long; high levels of stress are also attributed to the impact of losing patients and colleagues to COVID-19, fear of infection due to the shortage of PPE and separation from family as many health workers make the decision to self-isolate.¹⁴ Health workers are at a high risk of infection due to the lack, in many situations, of adequate supplies of the required standard of PPE. For many, this risk has already materialized: Italy, Spain, the UK and China, for instance, have recorded high levels of infection among health workers, and the numbers continue to climb.

Recommendations:

- States should use their maximum available resources to meet their core obligations under the right to health, which include ensuring access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups. Budget allocations for the health and health-supporting sectors should be increased, with resources being deployed towards the strengthening of the health workforce and the acquisition of additional intensive care units, ventilators, PPE and medications to treat secondary infections associated with COVID-19. Specific measures could include: (a) recruiting retired health personnel, with full death-in-service and other social security benefits, and deploying at-risk members of this group to non-COVID related work; (b) additional training for health personnel in infection control and intensive care protocols and procedures; (c) recruiting migrant or refugee doctors and other trained personnel and easing administrative procedures for the recognition of their qualifications; (d) assessing national medical stockpiles with a view to identifying shortages and levels of need across national and subnational levels; (e) increasing national stockpiles of testing kits and PPE; (f) roll-out of timely testing for COVID-19; (h) in tandem with conventional procurement strategies applicable to medical supplies, harnessing private sector manufacturing capacity to boost the supply of vital equipment such as personal protective equipment, ventilators and intensive care units.

¹⁴ See Lancet Editorial, Volume 395, Issue 10228, P922, March 21, 2020.

- During the crisis, States should continue to ensure that health services remain available and accessible and affordable to everyone for other health needs, such as cancer and HIV treatments, mental health services and sexual and reproductive health services on a non-discriminatory basis.
- States should put in place measures to ensure that health services reach marginalized groups, to mitigate the impact of the pandemic on them and to address structural, legal and administrative barriers to access. Such measures should include the provision of water and sanitation facilities to communities that lack access to adequate to them.
- With a view to protecting the rights of health workers and auxiliary personnel involved in the COVID-19 response, States should take urgent steps to ensure: (a) the distribution of adequate amounts of high quality PPE; (b) the availability of and free access to mental health support services, (c) readily accessible channels of recourse for personnel seeking to enforce their right to the provision of PPE; (d) the prevention of “price gouging” in relation to essential medical supplies such as medicines and PPE.

Examples of useful practices

*In **Australia**, a temporary workforce will be made available in case of a staff shortage in older persons care facilities, enabling them to maintain care, and the government has undertaken to carry out up-to-date infection control training to health workforce to help prevent the rapid spread of COVID-19.*

***Liberia** is using its National Community Health Assistant Programme to strengthen COVID-19 preparedness. Community Health Workers are supporting infection prevention and control measures by promoting physical distancing, organizing hand hygiene stations and educating their neighbours on disease transmission. This model was used with great success during the Ebola epidemic in 2014.*

*In **Wales**, the government has provided £1million to support the Health for Health Professionals Wales service, making free mental health support available to all frontline health workers in addition to the doctors already covered by the scheme.*

*A firm of architects in **Italy** is developing plans to convert shipping containers into negative-pressure isolation rooms fitted with intensive care units for use by COVID-19 patients. The designs will be freely available online, and the architects are in discussions with partners in the vehicle manufacturing industry to mass-produce the units, which are estimated to cost considerably less than a pre-fabricated field hospital before beds are installed. Negative pressure rooms are needed to contain airborne contaminants and prevent health personnel from contracting infections from patients.*

b) Access to information and participation

Access to health information and education is essential to the full enjoyment of the right to health. Armed with accurate, timely and accessible information, available in all local languages, affected communities are able to make informed decisions about protecting themselves and others. Particularly where their active and meaningful participation in health decision-making is solicited and facilitated at the same time, communities are empowered for positive involvement in the health response. This is equally true of communities and groups who often find themselves on the margins of society, such as migrants, persons with disabilities, persons living in poverty and older persons. While facilitating much-needed social connection and the exchange of useful information, the widespread use of social media has also provided a platform for the exchange of erroneous information. In the case, especially, of serious outbreaks such as COVID-19, where containment

measures such as physical distancing, quarantines and curfews may be judged necessary, the participation of a well-informed, empowered populace has a positive impact on ownership, compliance and solidarity.

Recommendations:

- Ensure timely access to accurate health information and education for everyone with a view to facilitating optimal participation in the health response, the uptake of health measures and informed decision-making. This involves the broad dissemination of health information necessary for the prevention of the spread of COVID-19 including through media such as television, radio, mobile phone messaging and social media.
- Make health information accessible for persons with disabilities, including through the use of accessible websites, formats such as sign language, braille and plain language and processes such as closed captioning and subtitles.
- Build the capacity of rights holders to participate and to claim their rights: (a) through the expedited deployment of multidisciplinary teams, with expertise in confinement and physical distancing measures conditions, to help establish dialogue spaces and facilitate participatory national responses; (b) by bringing together a cross-section of stakeholders, to include civil society organizations, women and youth activists, representatives of migrants and diaspora groups, faith based organizations, grassroots community representatives, employers' organizations and business owners, with a view to developing national and local level responses that strengthen social cohesion, trust and confidence.
- Using a human rights-based approach to data collection, identify populations and groups at risk of being left behind, including through collaboration with National Human Rights Institutions, civil society organizations, affected communities and other relevant experts.
- Ensure stakeholder participation in priority-setting, policy and programme design, implementation, monitoring and evaluation, and in accountability mechanisms. Specific measures should be taken to assure the participation of marginalized groups and populations, including women and girls, persons with disabilities, people living in formal settlements, migrants and older persons. This is crucial for the health response to be effective.
- Establish and/or strengthen transparent participation and social dialogue or multi-stakeholder mechanisms at community, subnational and national levels and ensuring that participation outcomes inform subnational and national policies and programmes.

RIGHTS TO WATER AND SANITATION

Ensuring the availability of safe drinking water and sanitation facilities, combined with a strong emphasis on hygiene practices, is critical in preventing the infection and spread of the virus. The lack of access to water and sanitation relates to, and may further aggravate, existing inequalities and entrenched discrimination based on gender, ethnicity, culture and socioeconomic status, among others. People living in informal settlements, prisons, refugee/IDP camps and other overcrowded living conditions with inadequate water and sanitation facilities are particularly at risk of contracting COVID-19. Women and girls living in remote areas where there is no piped access at home or in the community typically travel long distances to access points which do not allow for physical distancing. During the lockdown, older persons, persons with disabilities and people with health conditions will need to have continuous access to sufficient and affordable water.

The rights to water and sanitation are intrinsically linked to many other human rights, including health, food and housing. Limited access to water and poor sanitation leads to a vicious cycle of increased risks to infection, serious health

outcomes and poor living conditions. Governments need to implement targeted measures to break this cycle, ensure the continued and increased access to water and sanitation, with particular attention to marginalized groups.

Recommendations:

- Develop and implement targeted measures, including emergency measures, to ensure continued and increased access to water and sanitation, with particular attention to marginalized groups. These may include:
 - Identifying specific groups that are most at risk due to a lack of water and sanitation services and ensuring that they gain access immediately by removing barriers and extending services;
 - Ensuring the availability of water and sanitation services in all healthcare facilities;
 - Temporarily suspending utility charges including water and sanitation;
 - Developing gender-specific policies and programmes targeting female-headed households and women who are at high risk of contracting COVID-19, including health and care workers, where women represent the majority.
- Promote hand washing and hygiene practices at all levels, including through a nation-wide campaign and ensuring that information is accessible and adapted to the needs of specific groups such as persons with disabilities, older persons, indigenous peoples and minorities.
- Address stigma and discrimination associated with COVID-19 including against health workers and auxiliary personnel employed in health facilities.
- Increase longer-term investments in the water and sanitation sector to ensure the availability, accessibility, affordability and quality of water and sanitation for all, which will strengthen the resilience and accelerate the recovery and achievement of the SDGs.

Example of useful practice

UN Human Rights in action: [Human Rights Adviser in Kenya](#), in partnership with a network of 24 local social justice centres, initiated a project to conduct a baseline assessment of the status of the right to water in informal settlements around Nairobi. The process of assessment, which included interviews and focused group discussions with communities, gave a voice to rights holders to illustrate inequalities they face in accessing safe drinking water. Many of the issues emerged – such as gender, corruption and lack of security as women end up paying cash to men who escort them to water points during the night – they illustrate the indivisibility of rights and multiple challenges that underlie the inequality in access to safe drinking water. This enabled the communities to express their priorities and participate in shaping the implementation of SDG 6 and to ensure that rights, notably of vulnerable groups are respected. HRA Kenya is continuing its partnership with the Social Justice Centres to monitor the human rights impact of the COVID-19 crisis in informal settlements, and orient response and prevention measures to address the range of risks for vulnerable communities and groups.

In Uganda, a hands-free washing unit created by students at a Ugandan university is to be rolled out across all its campuses. The sensor- and solar-powered device costs about \$24 (£19.50) to produce and is designed with low-income users in mind. It can be fitted on any water container.

RIGHTS TO WORK AND SOCIAL PROTECTION

Around the world, due to limitations placed on freedom of movement to curb the spread of COVID-19, many people have lost their jobs, income or livelihoods, particularly those working in the informal sector. For some, the right to occupational health and safety has been violated as many are working in unsafe conditions without the necessary protective equipment. The crisis is having a more significant impact on those who have no access to social protection, a group which overwhelmingly includes women and children. There is an urgent need to enhance efforts to ensure that all people, especially the most marginalized, receive the support they need throughout the crisis. Children should be at the centre of any social protection scheme due to the heightened vulnerabilities that they face due to their early stage of physical, intellectual and emotional development. Cash transfers directed at families with children have been effective in the protection and fulfilment of children's rights, including their rights to life, to health and to education.

Social protection measures should be gender-sensitive and take into account women's unequal burden of unpaid care work. Older women are especially at risk. The unpaid care work they perform throughout their life obstructs their ability to access formal employment and therefore contributory social security or decent wages, endangering their right to an adequate standard of living across their life cycle. In the context of the COVID-19 crisis, women's unpaid care work has increased with the closure of schools and the impact of the health crisis as the care of children, the sick and older persons falls more heavily on them. Social protection policies should aim at correcting this imbalance to ensure unpaid care work does not undermine women's human rights. Human rights based social protection measures represent a critical tool for facilitating access to health care, protecting people against poverty and ensuring the satisfaction of basic economic and social rights, including food, water, housing, health and education.

Recommendations:

- Ensure the occupational health and safety of those who continue to work, in particular workers in the health, agriculture, food production and transport sectors and cleaning services, including by providing the necessary protective equipment.
- Develop social protection measures in the COVID-19 response that contribute to gender equality and protect the poorest and the most marginalized first; these measures should be developed and implemented through a participatory process which respects the right of individuals to seek, receive and impart information on all social security entitlements in a clear and transparent manner.
- Develop and implement short-term emergency measures with a view to extending social protection coverage and protecting people from the longer term impacts of the pandemic as well as future shocks, including through minimum income for all, universal health coverage and universal social protection.
- To respond to the COVID-19 crisis, social protection measures must:
 - facilitate access to health care by reducing out-of-pocket payments for patients, including by introducing universal health coverage schemes
 - provide income support and in-kind transfers, including health, housing and food aid services, to support people through the crisis, especially the most marginalized such as women, persons with disabilities, older persons, persons living in informal settlements, and ethnic and racial minorities.
 - ensure children and parents, in particular women, get the support they need with additional care responsibilities that fall more heavily on them with the closure of schools. This specific measure should go

hand-in-hand with far-reaching awareness raising campaigns on sharing family responsibilities in the home, including household chores and child-care, to promote equality between women and men.

- Invest in specific social protection measures that mitigate the negative impact of unemployment on youth, paying particular attention to the situation of young women who suffer from systemic discrimination, fuelled by harmful stereotypes and gendered social norms, in accessing and participating in the labour market. Social protection can support youth in their search for decent jobs, in accessing further education and in unlocking their full potential.
- Social and economic policies should correct the imbalance in family responsibilities by promoting equality between women and men instead of deepening the gap. Childcare, for example, should be guaranteed as a social protection measure and the benefits level for social pensions for older women must ensure an adequate standard of living.

Examples of useful practices

- *Free access to health insurance schemes for all participants of existing cash transfer programmes, waiving eligibility requirements (including citizenship documentation), or creating exemptions from co-payments or fees for specific services (e.g. for COVID 19 testing and treatment), mobile services to serve hard to reach populations;*
 - *Facilitating physical distancing policies by ensuring basic goods and services remain accessible for all, in particular for high-risk groups such as older persons and people in self-isolation;*
 - *Adapting delivery mechanisms of social protection programmes in line with physical distancing requirements such as waiving requirements for in-person visits to social protection offices, introducing or scaling up electronic payments or applications for benefits, and waiving conditionalities, such as attending schools or health clinics;*
 - *Adequate paid sick leave, sickness benefits or other income support in case of sickness, quarantine and self-isolation.*
 - *Family friendly workplace policies to flexibly respond to caring responsibilities.*
- Providing cash transfers to meet basic needs: cash transfer programmes, family leave policies, paid sick leave, unemployment benefits, partial unemployment or short -time work benefits; pensions or child grants*

RIGHT TO FOOD

The COVID-19 crisis has disrupted the livelihood of small-scale farmers and the entire global food supply chain, leading to an exacerbation of current and already dramatic food insecurity. More than two billion people in the world have no access to adequate food, which means having physical and economic access at all times to sufficient, adequate and culturally acceptable food. This puts them at greater risk of malnutrition, poor health and more vulnerable to health complications associated with COVID-19. The most affected are the poorest and most marginalized segments of the population, including women, children, migrants, indigenous peoples, internally displaced, persons with disabilities, older persons and those living in conflict-affected areas.

Increased food insecurity is imminent, partly due to trade and export limitations that some states are implementing with the risk of provoking another food crisis and higher prices. Moreover, food insecurity will be exacerbated in the coming

weeks by the lack of seasonal agricultural workers to harvest fruits, vegetables and staple crops, due to limitations to freedom of movement and the scarcity of protective equipment.

Restrictions of movement and shortage of seeds, fertilizers, veterinary medicines and other input is affecting agricultural production and in particular small-scale farmers. The closure of restaurants and less frequent grocery shopping diminish demand for fresh produce and fisheries products, affecting producers and suppliers. Sectors in agriculture, fisheries and aquaculture are particularly affected by restrictions on tourism, the closure of restaurants and cafés and the suspension of school meals.

There is evidence that voluntary and obligatory restrictions on movement are undermining small scale-farmers, many of them women, and limiting their ability to access seeds, work in the fields, hire additional labour and engage in cross-border trade. They may be also prone to food insecurity due to higher food prices as a result of food trade restrictions and there may be increased risk of land-grabbing by powerful actors profiting from the vacuum caused by the restriction of movement.

Women have specific dietary needs, in particular in relation to their reproductive health. Lack of access to regular, sufficient and nutritious food for women of childbearing age, including adolescent girls, could lead to life-threatening complications during pregnancy and delivery. Malnutrition of pregnant and breastfeeding women can also result in the malnutrition, as well as physical and mental impairment of their children.

Children are especially vulnerable to a lack of adequate food as they need nutritious and safe food to grow physically and mentally. Malnutrition during pregnancy and in the first five years of their life not only leads to death but also has long-lasting consequences, including mental and physical impairment, chronic illness, weak immune systems and poor reproductive health.

Recommendations:

- Devise targeted measures to support small-scale farmers and fishers, especially women, with financial support, access to credit, land, seeds, natural resources and technology to ensure their livelihood and to protect everyone's right to food.
- Put in place measures aimed at providing immediate support to satisfy people's specific dietary needs, including through the provision of food and nutrition assistance and livelihood, especially for the most marginalized, including women, persons with disabilities, older persons, children, ethnic and racial minorities.
- Ensure the mobility and safe working conditions of agriculture workers to secure food production.
- Take into consideration the nutritional needs of all women throughout their life cycle when designing food and nutrition assistance and the obstacles they face in accessing food, including the discrimination they experience because of their perceived lower status within and outside the home.
- Devise targeted measures to reach children and satisfy their specific nutritional needs, especially in the context of the closure of schools and lack of access to school meal programmes where applicable.

Examples of useful practices

- *Delivery of food and basic supplies to individuals, in particular to older persons, persons with disabilities and persons in quarantine or self isolation*
- *Early cash transfers or distribution of agricultural inputs to avoid small-scale farmers having to consume seeds or sell livestock to provide essential assistance in the short-term and support livelihoods in the long-term.*
- *Protective equipment for agricultural workers and exemptions to restrictions on freedom of movement to enable them to work.*

RIGHT TO ADEQUATE HOUSING

The pandemic has laid bare the pre-existing and vast structural inequalities in housing systems all over the world, characterized globally by rising housing unaffordability and the lack of available public housing stock. Many households are at risk of not being able to pay rent, mortgage or utility bills. Many are facing eviction or foreclosures, and cuts to water, electricity or telecommunications services. People living in informal settlements frequently live in overcrowded conditions without access to on-site water or sanitation facilities, and face the constant threat of forced eviction. Homelessness, including during a crisis, and irrespective of nationality or legal status, is a *prima facie* violation of human rights. The core protections provided by the right to housing, as well as the right to health and the right to food, are so fundamental to human dignity and the preservation of life that they can never be suspended, even in a state of emergency.

Measures taken under the right to adequate housing framework should: (a) help to address the rising housing unaffordability and the lack of available of housing stock, while also serving to protect the right to housing of residents during the pandemic; (b) address the urgent housing needs of homeless people to ensure their equal right to preventative health measures; and (c) provide protection against evictions and the discontinuation of utilities for every household including people living in informal settlements.

Recommendations:

- Ensure that measures taken during and after the crisis prevent evictions and homelessness. Governments should take this opportunity to ensure that housing systems are sustainable, human rights based and resilient in the face of the next global crisis.
- Develop measures that ensure inclusiveness and address the housing needs of society including of marginalized groups, people living in informal settlements, homeless people and migrants.
- Adopt measures based on the principles of solidarity across society in a fair and equitable manner, ensuring that renters or homeowners do not emerge from the pandemic overburdened with housing related debt and the financial burden shouldered by banks, financial institutions, corporate landlords and financial actors is proportionate to their resources.
- Measures adopted by States should be shaped by the informed and meaningful participation of the population, including informal and formal tenants, landowners, housing agencies, civil society actors active in the support for homeless people and housing rights, banking and financial institutions.
- Ensure that adequate standards of living are upheld and no essential services are suspended or denied because of informality of the settlements, lack or late payment, or underpayment of rent or of a mortgage, due to the virus and the pandemic response, including water, electricity, heating, phone, internet and tele-communications.
- To respond to the COVID-19 crisis, measures related to housing should:
 - Prohibit evictions and the threat of eviction due to arrears of rental, mortgage or utility payments during the pandemic period and for a reasonable period thereafter. Evictions or foreclosures scheduled before the pandemic commenced should be suspended.

- Provide accommodation immediately to all homeless people living ‘rough’ or on the streets with a view to transitioning them to permanent housing so that they do not return to a situation of homelessness once the pandemic is over.
- Cease the forced eviction or dismantling of encampments of homeless people and recognize that in some instances encampments may be safer than other available accommodation, such as shelters.
- Ensure that homeless people are not criminalized, fined or punished in the enforcement of curfew or containment measures, and terminate law enforcement practices that increase the marginalization of people experiencing homelessness, including the apprehension of personal property or street ‘sweeps’.
- Provide legal remedies and referral mechanisms for people in need of assistance and whose rights to housing have been violated, at national and municipality levels.
- Put in place a national body entrusted with the mandate to provide free and impartial assistance for households and individuals in re-negotiating rent payments and debt. It could also provide assistance with the implementation of national debt relief schemes for private households in a fair, non-bureaucratic and efficient manner.

Examples of useful practices

- *Provide accommodation for homeless persons through procuring hotel rooms, repurposing buildings such as army barracks, or unused hospitals (Europe).*
- *Implement an immediate rent freeze, prohibiting any increases in rental costs including any adjustments for inflation, during the pandemic and for a reasonable period thereafter. (France)*
- *Establish a national moratorium on eviction as measures to prevent and limit eviction and foreclosure due to respectively non-payment of rent and mortgage in the context of the Covid-19. Provision of subsidy for housing support including for utility bills (Canada).*
- *Ensure that women, children and youth who may need to leave a household due to violence do not fall into homelessness and are provided with adequate alternative accommodations that ensure safety and provide access to water/sanitation, food, social support, health services and testing for COVID19.*

RIGHT TO EDUCATION

The closure of schools and educational institutions is one of the measures adopted worldwide to contain the spread of Covid-19. UNESCO reports that 191 countries have temporarily closed educational institutions, affecting 1.575 billion learners.¹⁵ While many countries are striving to ensure continuity of education during the closures, this is not enough to avoid the disruption of learning for all and fails to respond adequately to pre-existing social inequalities. Some 826 million students, kept out of the classroom by the pandemic, do not have access to a household computer and 43% (706 million)

¹⁵ UNESCO, April 2020, Data, Impact of Covid-19 on education.

have no internet at home, at a time when digitally-based distance learning is used to ensure educational continuity in many countries. The closure of schools and recourse to distance learning are exacerbating the inequalities and learning gap between children with resources, access to computers and internet networks and those in overcrowded accommodation, those living in informal settlements or remote areas and those with disabilities who require adapted materials. The lockdowns have had a particularly severe impact on the most vulnerable including the disruption of access to food for children and increased economic costs for parents. In some parts of the world, the closure of schools not only disrupts education, but also places children at increased risk of economic exploitation and abuse, while girls may be expected to take on additional care work at home.

School closures, in addition, raise uncertainty with regard to the fairness of learning assessments, and the validation of the school year; they will also delay decisions on student progression and graduation. These infringements to the right to education may lead to a rise in the number of children and learners dropping out of the education system. Ensuring that the right to education is guaranteed and achieved, even during emergencies, requires measures that prevent the rolling back of progress made in expanding educational access and improving the quality of learning for all, in particular for children from marginalized groups. With the relationship between learners and educators at the core, measures to continue education after the COVID-19 crisis should be shaped with the informed participation of all stakeholders, parents' associations, teachers' associations, civil society and local authorities.

Recommendations:

- States should increase budget allocations for emergency measures in the education sector, including resources available through international cooperation, to ensure that education, particularly compulsory education, is guaranteed and affordable to all learners without discrimination.
- States should support the continuity of learning through the use of distance learning approaches, with high-technology or low-technology such as telephones and printed materials, as public schools in a number of developing countries do not have access to internet, and through alternative means such as community radios or televisions. Particular support should be provided to households with low-literacy and other vulnerable groups such as migrants with additional accompaniment by parents' associations or school relay system and by providing adapted materials.
- States should develop post-emergency measures with a view to ensuring that the education sector addresses inequality and exclusion and is adequately prepared to respond in the event of another crisis. Such measures should include support provided to teachers.
- To respond to the COVID-19 crisis, social protection measures must:
 - Include means to ensure continuity of learning through adapted measures i.e. distance learning for countries with sufficient internet and technology coverage and other alternatives measures such as use of community radio and television broadcasts for countries with low internet coverage.
 - Guarantee the continuity of learning, support to pupils should be achieved including through distance learning, use of low-technology such as telephones and printed materials as public schools in number of developing countries do not have access to internet.
 - Ensure continued access to food for children enrolled in school through social security schemes.

- Monitoring of the actual access and quality of education through distance learning should be conducted, with the participation of parents associations and local authorities.
- Adopt post-lockdown corrective measures in order to remedy learning gaps that might have occurred during the pandemic. Ministries of education should engage with teachers and parents associations, local authorities and other groups in that perspective.
- Adopt pro-active measures should also to ensure that all enrolled children come back once schools resume.

Examples of useful practices

- *Computers made available or on loan by schools and local authorities to support children distance learning (**Switzerland**).*
- *Subsidies for internet or telecommunications services (**United Kingdom**)*
- *Development of educational programmes on community radios and televisions (**Peru**).*
- *Distribution of food vouchers for the most marginalized households with children enrolled in schools (**United Kingdom**).*
- *Some education publishers are providing teachers with an open license to use proprietary online textbooks free of charge, which is crucial while turning all teaching materials into digital format is a challenge (**Netherlands**).*
- *Development of a platform with free digital resources for major school curricular disciplines in primary and secondary education, as well as distance learning programmes (**Cameroon**).*

PART III: RESOURCES AND TOOLS

A. ESCRs in general

- OHCHR Fact sheet on Q&As on ESCRs
<https://www.ohchr.org/Documents/Issues/ESCR/FAQ%20on%20ESCR-en.pdf>
- OHCHR Early warning and economic, social and cultural rights, methodological framework
https://www.ohchr.org/Documents/Issues/ESCR/EarlyWarning_ESCR_2016_en.pdf
- OHCHR's portal on economic, social and cultural rights
<https://www.ohchr.org/EN/Issues/ESCR/Pages/ESCRIndex.aspx>

B. The right to health

A human rights framework for realizing the right to health calls for national governments to ensure that health facilities, goods and services are available in sufficient quantity, and are physically accessible and affordable on the basis of non-discrimination. Health facilities, goods and services should be gender-sensitive and culturally appropriate, scientifically and medically appropriate, of good quality, and respectful of medical ethics. Duty-bearers should be accountable to rights holders and ensure their meaningful participation in the development, implementation and monitoring of health policy.

While the right to health may be realized progressively, States are still required to ensure the satisfaction of the minimum essential levels of the right to health. These “core obligations” include, for the right to health: (a) ensuring the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalized groups; (b) ensuring access to adequate food and nutrition; (c) ensuring access to basic shelter, housing and sanitation; providing access to essential drugs; (d) ensuring an equitable distribution of all health facilities, goods and services; and (d) adopting and implementing a national public health strategy and plan of action which address the health concerns of the whole population.¹⁶

Accessibility: health facilities, goods and services must be accessible physically (in safe reach for all sections of the population, including children, adolescents, older persons, persons with disabilities and other vulnerable groups) as well as financially and on the basis of non-discrimination. Accessibility also implies the right to seek, receive and impart health-related information in an accessible format (for all, including persons with disabilities), but does not impair the right to have personal health data treated confidentially.

Availability: functioning public health and health-care facilities, goods and services must be available in sufficient quantity within a State.

Participation: The beneficiaries of health care services, facilities and goods should have a voice in the design and implementation of health policies which affect them.

¹⁶See CESCR, general comment No. 14, para. 43.

Accountability: Duty bearers should be held accountable for meeting human rights obligations in the area of public health, including through the possibility of seeking effective remedies for breaches such as, for example, the denial of treatment.

Acceptability: the facilities, goods and services should also respect medical ethics, and be gender-sensitive and culturally appropriate. In other words, they should be medically and culturally acceptable

Good quality: health facilities, goods and services must be scientifically and medically appropriate and of good quality. This requires, among other things, trained health professionals, scientifically approved and unexpired drugs and hospital equipment, adequate sanitation and safe drinking water.

- OHCHR Fact sheet on the right to health
<https://www.ohchr.org/Documents/Publications/Factsheet31.pdf>
- Contributions of the right to health framework to the effective implementation and achievement of the health-related Sustainable Development Goals
<https://undocs.org/en/A/HRC/38/37>
- Universal health coverage and human rights
<https://undocs.org/en/E/2019/52>

C. The rights to water and sanitation

Having access to safe drinking water and sanitation is central to living a life in dignity and upholding human rights. The rights to water and sanitation require that these are available, accessible, safe, acceptable and affordable for all without discrimination. These elements are clearly interrelated. While access to water may be guaranteed in theory, in reality, if it is too expensive, people do not have access. Women will not use sanitation facilities which are not maintained or are not sex segregated. Having a tap which delivers unsafe water does not improve one's access. Human rights demand a holistic understanding of access to water and sanitation. The rights to water and sanitation further requires an explicit focus on the most disadvantaged and marginalized, as well as an emphasis on participation, empowerment, accountability and transparency.

Availability: The water supply should be sufficient and continuous for personal and domestic uses, including drinking, personal sanitation, washing clothes, food preparation, and personal and household hygiene. There must be a sufficient number of sanitation facilities within or in the immediate vicinity of each household, and all health or educational institutions, workplaces and other public places to ensure that all the needs of each person are met. Moreover, they should be available continuously and in a sufficient number to avoid overcrowding and unreasonable waiting times.

Physical accessibility: Water supply and sanitation infrastructure must be located and built in such a way that it is genuinely accessible, with consideration given to people who face specific barriers, such as women, children, elderly people, people with disabilities and chronically ill people. Some aspects are particularly important: the design of the facilities; the time and distance to collect water or to reach a sanitation facility; and physical security.

Affordability: Everyone must be able to afford water and sanitation services in a way that does not limit one's capacity to acquire other basic goods and services (such as food, health and education) that are essential for the realization of other

human rights. While human rights laws do not require services to be provided free of charge, States have an obligation to provide free services or put adequate subsidy mechanisms in place to ensure that services always remain affordable for the poor. Moreover, disconnection of water services because of failure to pay due to a lack of means may constitute a violation of human rights.

Quality and safety: The human rights framework specifies that the water required for each personal or domestic use must be safe, well lit, with secure doors and free from micro-organisms, chemical substances and radiological hazards that constitute a threat to a person's health. Furthermore, water should be of an acceptable colour, odour and taste for each personal or domestic use. Sanitation facilities must be hygienically safe to use, meaning that the infrastructure must effectively prevent human, animal and insect contact with human excreta; ensure access to safe water for hand washing and menstrual hygiene; be designed in a way that takes the needs of persons with disabilities and children into account; and be regularly cleaned and maintained.

Acceptability: All water facilities and services must be culturally acceptable and appropriate, and sensitive to gender, life-cycle and privacy requirements. Cultural values and different perspectives must be taken into account regarding design, positioning and conditions for use of sanitation facilities. In most cultures, acceptability will require separate facilities for women and men in public places, and for girls and boys in schools. Toilets for women and girls should take needs for menstruation hygiene management into consideration, particularly with respect to ensuring privacy and safety. Facilities need to allow for culturally acceptable hygiene practices, such as hand washing and anal and genital cleansing.

- OHCHR's page on water and sanitation
<https://www.ohchr.org/en/issues/escr/pages/water.aspx>
- UN Special Rapporteur on Water and Sanitation
<https://www.ohchr.org/EN/Issues/WaterAndSanitation/SRWater/Pages/SRWaterIndex.aspx>
- UN Water on COVID-19
<https://www.unwater.org/coronavirus-global-health-emergency/>

D. The right to work

The right to work¹⁷ is essential for realizing other human rights and constitutes an inseparable and inherent core of human dignity. Work usually provides livelihood, and when freely chosen, it contributes to self-development and recognition within the community. It includes the right to just and favourable conditions of work, including the right to safe working conditions, to form or join a trade union. Decent work underpins the fundamental rights of individuals, provides an income allowing workers to support themselves and their families, and includes respect for the physical and mental integrity of the worker in the exercise of her/his employment.

Availability: specialized services have to be available to assist and support individuals in order to enable them to identify and find available employment;

Accessibility: the labour market must be open to everyone under the jurisdiction of States parties. Accessibility has three dimensions:

¹⁷ See CESCR, general comment No. 18.

- (i) Non-discrimination in access to and maintenance of employment on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, physical or mental disability, health status (including HIV/AIDS), sexual orientation, or civil, political, social or other status, which has the intention or effect of impairing or nullifying exercise of the right to work on a basis of equality. Even in times of severe resource constraints, disadvantaged and marginalized individuals and groups must be protected by the adoption of relatively low cost targeted programmes;
- (ii) Physical accessibility to employment
- (iii) Accessibility includes the right to seek, obtain and impart information on the means of gaining access to employment through the establishment of data networks on the employment market at the local, regional, national and international levels;

Acceptability and quality: the right of the worker to just and favourable conditions of work, in particular to safe working conditions, the right to form trade unions and the right freely to choose and accept work.

Core content:

- a. to ensure the right of access to employment, especially for disadvantaged and marginalized individuals and groups, permitting them to live a life of dignity;
- b. to avoid any measure that results in discrimination and unequal treatment in the private and public sectors of disadvantaged and marginalized individuals and groups or in weakening mechanisms for the protection of such individuals and groups;
- c. to adopt and implement a national employment strategy and plan of action based on and addressing the concerns of all workers on the basis of a participatory and transparent process that includes employers' and workers' organizations. Such an employment strategy and plan of action should target disadvantaged and marginalized individuals and groups in particular and include indicators and benchmarks by which progress in relation to the right to work can be measured and periodically reviewed.

- Austerity measures and economic, social and cultural rights
https://www.ohchr.org/Documents/Issues/Development/RightsCrisis/E-2013-82_en.pdf
- Youth and the right to work
<https://www.ohchr.org/EN/Issues/ESCR/Pages/YouthRightToWork.aspx>

E. The right to social security

The right to social security¹⁸ aims to provide income security and support for all people across the life cycle, with particular attention to the most marginalized. Such support, whether in cash or in kind, is provided without discrimination in order to secure protection from (a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents.

¹⁸ See CESCR, general comment No 19.

Availability: a social security system has to be available and in place to ensure that benefits are provided for the relevant social risks and contingencies.

Adequacy: benefits, whether in cash or in kind, must be adequate in amount and duration in order that everyone may realise his or her rights to family protection and assistance, an adequate standard of living and adequate access to health care.

Accessibility:

- Coverage: all persons should be covered by the social security system, especially the most disadvantaged and marginalized groups, without discrimination. In order to ensure universal coverage, non-contributory schemes are necessary.
- Eligibility: qualifying conditions for benefits must be reasonable, proportionate and transparent. The withdrawal, reduction or suspension of benefits should be circumscribed, based on grounds that are reasonable, subject to due process, and provided for in national law.
- Affordability: the direct and indirect costs associated with making contributions must be affordable for all, and must not compromise the realization of other economic and social rights.
- Participation and information: beneficiaries of social security schemes must be able to participate in the administration of the social security system. The system should be established under national law and ensure the right of individuals and organizations to seek, receive and impart information on all social security entitlements in a clear and transparent manner.
- Physical access: benefits should be provided in a timely manner and beneficiaries should have physical access to the social security services in order to access benefits and information.

Core content: to ensure on a non-discriminatory basis a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education.

- Social protection floors and economic, social and cultural rights
<https://www.ohchr.org/Documents/Issues/SocialSecurity/ReportSocialProtectionFloors.pdf>
- Austerity measures and economic, social and cultural rights
https://www.ohchr.org/Documents/Issues/Development/RightsCrisis/E-2013-82_en.pdf
- UN Social protection and human rights platform, OHCHR, ILO, UNICEF, UNWOMEN, FAO
<https://socialprotection-humanrights.org/about/>

F. The right to food

The right to food¹⁹ is the right of every individual, alone or in community with others, to have physical and economic access at all times to sufficient, adequate and culturally acceptable food that is produced and consumed sustainably, preserving access to food for future generations. Individuals can secure access to food (a) by earning incomes from employment or

¹⁹ See CESCR, general comment No 12.

self-employment; (b) through social transfers; or (c) by producing their own food, for those who have access to land and other productive resources. It is a right to all nutritional elements a person needs to lead a healthy and active life and to the means to access them. Nutrition is an essential component of both right to food and the right to health.

Availability: food should be available from natural resources either through the production of food, by cultivating land or animal husbandry, or through other ways of obtaining food, such as fishing, hunting or gathering. Food should be available for sale in markets and shops.

Accessibility: economic and physical access to food to be guaranteed. Economic accessibility means that food must be affordable. Individuals should be able to afford food for an adequate diet without compromising on any other basic needs, such as school fees, medicines or rent. Physical accessibility means that food should be accessible to all, including to the physically vulnerable, such as children, the sick, persons with disabilities or the elderly. Access to food must also be guaranteed to people in remote areas and to victims of armed conflicts or natural disasters, as well as to prisoners.

Adequacy: food must satisfy dietary needs, taking into account the individual's age, living conditions, health, occupation, sex, etc. Food should be safe for human consumption and free from adverse substances. Adequate food should also be culturally acceptable.

Sustainability: food should be accessible for both present and future generations.

Core content: access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure freedom from hunger.

- OHCHR Fact sheet on right to food
<https://www.ohchr.org/Documents/Publications/FactSheet34en.pdf>
- FAO policy briefs on COVID-19 and food security
<http://www.fao.org/2019-ncov/resources/policy-briefs/en/>
- FAO Right to Food Guidelines
<http://www.fao.org/3/a-y7937e.pdf>
- CFS Framework for action for food security and nutrition in protracted crisis
<http://www.fao.org/3/a-bc852e.pdf>

G. The right to adequate housing

International human rights instruments²⁰ recognize “the right of everyone to an adequate standard of living for themselves and their family, including adequate food, clothing and housing, and to the continuous improvement of living conditions”. The right to housing should be ensured to all persons irrespective of income or access to economic resources and in line with the concept of human dignity and the principle of non-discrimination.

²⁰ Cf. Article 25 (1) of the Universal Declaration of Human Rights and article 11(1) of the ICESCR.

To achieve the full realization of the right to adequate housing, States are required to take necessary steps to ensure that the essential factors of adequacy are guaranteed. These essential factors are a) legal security of tenure, (b) availability of services, materials, facilities and infrastructure, (c) affordability, (d) habitability, (e) accessibility, (f) location and (g) cultural adequacy²¹. In fulfilling its obligation to protect the right to adequate housing, States should tailor their housing laws, policies and measures to the most vulnerable groups such as persons living in informal settlements, homeless, migrants or indigenous people, in order to prevent people from evictions and the risks of homelessness.

Legal security of tenure: either through rental or ownership, all persons should have a degree of security which guarantees legal protection against eviction and other threats.

Availability: in addition to availability of housing in sufficient quantity, availability also requires adequate housing to have be equipped with safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services.

Affordability: adequate housing should be economically accessible for each person or household. States should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases.

Habitability: adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors.

Accessibility: disadvantaged and marginalized groups must be accorded full and sustainable access to adequate housing resources.

Location: adequate housing must be in a location which allows access to employment options, health-care services, schools, childcare centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households.

Cultural adequacy: the way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing.

- UN Special Rapporteur on Adequate Housing
<https://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>
- Toolkit on the right to adequate housing
<https://www.ohchr.org/en/issues/housing/toolkit/pages/righttoadequatehousingtoolkit.aspx>
- Guidelines for the Implementation of the Right to Adequate Housing,
<https://undocs.org/en/A/HRC/43/43>

²¹ General Comment No. 4. on the Right to Adequate Housing.

- UN Special Rapporteur on housing, Guidance Note, Informal settlements
https://www.ohchr.org/Documents/Issues/Housing/SR_housing_COVID-19_Guidance_informal_settlements.pdf
- UN Special Rapporteur on housing, Guidance Note, Homeless
https://www.ohchr.org/Documents/Issues/Housing/SR_housing_COVID-19_guidance_homeless.pdf
- UN Special Rapporteur on housing, Guidance Note, Rent and mortgage payers
https://www.ohchr.org/Documents/Issues/Housing/SR_housing_COVID-19_guidance_rent_and_mortgage_payers.pdf

H. The right to education

The right to education is guaranteed for all on non-discriminatory basis and encompasses the (a) the right of access to quality education; (b) the practice of human rights in and through education; and (c) education as a right that facilitates the fulfilment of other rights. In realizing the right to education, States should ensure that the education system is available for all through sufficient number of educational institutions, is accessible to all, regardless of their social/ethnic groups, disability or economic status, is acceptable and adaptable. These obligations prevail even during a crisis.

States have the core obligations to respect, protect and fulfil each of the essential features of the right to education.

Availability: functioning educational institutions, with buildings, sanitation facilities, safe drinking water, trained teachers, teaching materials should be available in sufficient quantity within the country.

Accessibility: educational institutions should be accessible for all, on non-discriminatory basis, should be physically accessible and it should be economically affordable.

Acceptability: the form and substance of education, including curricula and teaching methods, have to be relevant, of good quality and culturally appropriate for the children and the parents.

Adaptability of the right to education²²: education has to be flexible so it can adapt to the needs of changing societies and communities and respond to the needs of students within their diverse social and cultural settings.

- OHCHR page on International standards relating to right to education
<https://www.ohchr.org/EN/Issues/Education/SREducation/Pages/InternationalStandards.aspx>
- General Comment No. 13, The right to education (article 13 of the Covenant)
<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G99/462/16/PDF/G9946216.pdf?OpenElement>
- UN Special Rapporteur on right to education
<https://www.ohchr.org/EN/Issues/Education/SREducation/Pages/SREducationIndex.aspx>

²² General Comment No. 13 on the right to education, CESCR

- Report of the Special Rapporteur on the right to education, Inclusion, equity and the right to education, A/72/496, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/303/24/PDF/N1730324.pdf?OpenElement>

I. Human rights and COVID-19

OHCHR

OHCHR COVID-19 guidance

<https://www.ohchr.org/EN/NewsEvents/Pages/COVID19Guidance.aspx>

OHCHR COVID-19 and women's human rights guidance

https://www.ohchr.org/Documents/Issues/Women/COVID-19_and_Womens_Human_Rights.pdf

Frequently Asked Questions on a Human Rights-Based Approach to Development Cooperation

<https://www.ohchr.org/Documents/Publications/FAQen.pdf>

Treaty Bodies

Committee on Economic, Social and Cultural Rights press release on COVID-19

<https://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>

UN Special Procedures

COVID-19 and UN Special Procedures

<https://www.ohchr.org/EN/HRBodies/SP/Pages/COVID-19-and-Special-Procedures.aspx>

UN Secretary General

Secretary General's report: "Shared responsibility, global solidarity: responding to the socio-economic impacts of COVID-19"

https://www.un.org/sites/un2.un.org/files/sg_report_socio-economic_impact_of_covid19.pdf

Secretary General's policy brief on debt relief and Covid-19

https://www.un.org/sites/un2.un.org/files/un_policy_brief_on_debt_relief_and_covid_april_2020.pdf