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Part of the effort to clarify the normative content of social rights such as the right to housing, to healthcare, or to education, has consisted in identifying the key characteristics that the goods that individuals have a right to should present, thus further clarifying the content of the duty of the State to provide such goods. Indeed, unless such characteristics are well defined, there is a risk that the least affluent segments of society, whose economic marginalization often goes hand in hand with political disempowerment -- both forms of exclusion exacerbating each other --, will be underserved. Though they may have access to primary healthcare centres, for instance, these centres may be staffed by poorly trained health practitioners, and though they may benefit from social housing, this may be in remote areas far from their place of employment, and in which the coverage of public services is insufficient: since the poor rarely can complain, either because of legal obstacles or because of a lack of capacity, such gaps may remain unremedied. Therefore, for rights such as the right to education, to food, to housing, or the "highest attainable standard of health" (referred to in articles 11, 12 and 13 of the 1966 International Covenant on Economic, Social and Cultural Rights), human rights experts have developed a list of the conditions that the delivery of the corresponding social goods should comply with. One influential scheme, developed first by the Committee of Economic, Social and Cultural Rights in the context of the right to adequate housing (see the 1992 General Comment (No. 5) on the right to adequate housing) and then extended to the right of education by the then Special Rapporteur on the right to education, Ms. Katarina Tomasevski (1998-2004), is the "Five As" scheme, referring to the conditions of (i) availability (enough of the good must be available in relation to needs), (ii) accessibility (the good should be accessible to all without discrimination), (iii) adequacy (the good must present certain essential qualities), (iv) acceptability (the good provided must take into account cultural and religious norms in the way it is provided), (v) adaptability (the service provided should be regularly evaluated and improved in the light of the feedback from the beneficiaries).

The scheme knows many variations, and the vocabulary is not consistent. For instance, sometimes "Four As" are retained, rather than five, and the notion of "adequacy" is sometimes referred to as "quality". But the intent remains always the same: to ensure that the guarantee of social rights is conceived of not simply as a matter of quantity to be provided, but also of access to all and of adequate quality. Try to imagine how the Committee on Economic, Social and Cultural Rights may have sought to defined these various characteristics in the course of clarifying the normative content of the rights stipulated in the International Covenant on Economic, Social and Cultural Rights, and then look at the actual definitions provided in the relevant general comments it adopted.

EXERCISE - THE FIVE "A"S (3/3 points)

1. What would correspond to the requirement of "availability" as regards the right to water, to which the Committee on Economic, Social and Cultural Rights dedicated a specific general comment in 2003?

- Volume of fresh water available in the country in comparison to the total population;
- Volume of fresh water available per household;
- Volume of water (fresh water and potable water) to satisfy the basic needs of each individual; ✔
- Volume of water for irrigation and household needs for each community.

EXPLANATION

In General Comment No. 15 (2003) on the right to water, the Committee defines this requirement as follows: "The water supply for each person must be sufficient and continuous for personal and domestic uses. These uses ordinarily include drinking, personal sanitation, washing of clothes, food preparation, personal and household hygiene. The quantity of water available for each person should correspond to World Health Organization (WHO) guidelines. Some individuals and groups may also require additional water due to health, climate, and work conditions".

2. How would you define "acceptability" in the context of the the right to the "highest attainable standard of health" recognized in article 12.1 of the ICESCR?

- Healthcare that is culturally appropriate and responds to the specific needs of each individual;
- Healthcare that is in accordance with medical ethics;
- Healthcare that is designed to improve the health status of the patient;
- All of the above. ✔

EXPLANATION

In its General Comment No. 14 it adopted in 2000 on this right, the Committee on Economic, Social and Cultural Rights defined "acceptability" as a requirement that: "All health facilities, goods and services must be respectful of medical ethics and culturally appropriate, i.e. respectful of the culture of individuals, minorities, peoples and communities, sensitive to gender and life-cycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned".

3. How would you define "accessibility" in the context of the same right?

- Healthcare services that are within reasonable geographical reach;
- Healthcare services that are delivered without discrimination to all;
- healthcare services that are affordable to all, including the poorest;
- Healthcare services that people are adequately informed about;
- All of the above. ✔

EXPLANATION

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This, again, is the approach to "accessibility" adopted by the Committee on Economic, Social and Cultural Rights, in its *General Comment No. 14* (2000) on the right to the highest attainable standard of health: "Health facilities, goods and services have to be accessible to everyone without discrimination, within the jurisdiction of the State party. Accessibility has four overlapping dimensions: (i) *Non-discrimination*: health facilities, goods and services must be accessible to all, especially the most vulnerable or marginalized sections of the population, in law and in fact, without discrimination on any of the prohibited grounds; (ii) *Physical accessibility*: health facilities, goods and services must be within safe physical reach for all sections of the population, especially vulnerable or marginalized groups, such as ethnic minorities and indigenous populations, women, children, adolescents, older persons, persons with disabilities and persons with HIV/AIDS. Accessibility also implies that medical services and underlying determinants of health, such as safe and potable water and adequate sanitation facilities, are within safe physical reach, including in rural areas. Accessibility further includes adequate access to buildings for persons with disabilities; (iii) *Economic accessibility (affordability)*: health facilities, goods and services must be affordable for all. Payment for health-care services, as well as services related to the underlying determinants of health, has to be based on the principle of equity, ensuring that these services, whether privately or publicly provided, are affordable for all, including socially disadvantaged groups. Equity demands that poorer households should not be disproportionately burdened with health expenses as compared to richer households; (iv) *Information accessibility:* accessibility includes the right to seek, receive and impart information and ideas concerning health issues. However, accessibility of information should not impair the right to have personal health data treated with confidentiality.".

Check Hide Answer(s)

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