



International Human Rights Law (4th edn)

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p. 187 10. Adequate Standard of Living

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Abstract

This chapter examines the right to an adequate standard of living and its components, namely, the rights to food, housing, and health. The chapter analyses the meaning and key features of the right to an adequate standard of living and examines the normative content of that right and its components, namely, the rights to food, housing, and health. The chapter then explores the difficulties and special obligations in ensuring the right to an adequate standard of living for particular groups of people, addresses the relationship between the right to an adequate standard of living and other human rights, examines the question of progressive implementation of the right, and, finally, addresses the justiciability of the right to an adequate standard of living and the need for international action in its implementation.

Keywords: international human rights, food, housing, health, standard of living, water, women, children, indigenous peoples, Dalits, Roma, social security, social assistance, progressive implementation, obligation to protect, obligation to respect, obligation to fulfil

Summary

This chapter considers the human right to an adequate standard of living and its main components, namely, the rights to food, housing, and health. These rights are, in whole or in part, contained in principal international human rights instruments, which impose an obligation on states parties to take a range of measures to ensure everyone can enjoy them. A particular challenge is to ensure the right to an adequate standard of living to people who are in particularly vulnerable situations or have

special needs. The chapter explores the relationship between the right to an adequate standard of living and other human rights and describes some of the recent international developments regarding the progressive implementation of the right.

1 Introduction

The right to an adequate standard of living was first introduced into international human rights law through Article 25(1) of the Universal Declaration of Human Rights (UDHR):

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

Among the main inspirations for this provision was former US President Franklin D Roosevelt's 'Four Freedoms' address to Congress in 1941.¹ In that speech, Roosevelt referred to four fundamental human freedoms to be secured in the future world order: freedom of speech, freedom of religion, *freedom from want*, and freedom from fear. The inspirational legacy of that speech is expressly recognized in the preamble to the UDHR:

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, *and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.*²

p. 188 ↵ Article 25 UDHR can also be seen as an elaboration of Article 1 UDHR, stating that 'All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.' A life in dignity requires an adequate standard of living. Human rights assume that individuals are not only rational but also have a social conscience, and are, therefore, concerned with the dignity of their fellow human beings. This requires a global social contract, which combines economic, social, and cultural rights with civil and political rights. This global social contract is spelled out in the UDHR and reinforced by subsequent legally binding conventions. The right to an adequate standard of living is also closely linked to Article 22 UDHR, which provides that everyone has the right to social security and is entitled to realization of the economic, social, and cultural rights indispensable for their dignity and the free development of their personality.

This chapter starts, in Section 2, with an analysis of the meaning and key features of the right to an adequate standard of living. Section 3 examines the normative content of this right and its components, namely, the rights to food, housing, and health. The right to water is a necessary component of each of these rights, and is briefly addressed under the right to food. Section 4 explores the difficulties and special obligations in

ensuring the right to an adequate standard of living for particular groups of people. Section 5 addresses the relationship between the right to an adequate standard of living and other human rights. Section 6 examines the question of progressive implementation of this right. Section 7 addresses the justiciability of this right and the need for international action in its implementation.

2 Meaning and Features

Article 25 UDHR has been strengthened in law through subsequent guarantees of an adequate standard of living, including Articles 11 and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) and Article 27 of the Convention on the Rights of the Child (CRC). None of these instruments precisely define the term 'adequate standard of living', but it can to some extent be understood from the context. According to Article 11 ICESCR, an adequate standard of living includes 'adequate food, clothing and housing'. Under Article 12 ICESCR, states parties have recognized the right of everyone to the highest attainable standard of health. The standard of living guaranteed to every child by Article 27 CRC is one that is 'adequate for the child's physical, mental, spiritual, moral and social development'.

While the basic necessities referred to in these instruments include food, clothing, housing, and healthcare, an adequate standard of living requires more. Precisely how much more is required cannot be stated in general terms, but depends on the conditions in the society concerned. The essential point is that everyone should be able, without shame and without unreasonable obstacles, to become a full participant in ordinary, everyday interaction with other people. Everyone should be able to enjoy their basic needs under conditions of dignity. No one should have to live under conditions whereby the only way to satisfy their needs is by degrading or depriving themselves of their basic freedoms, such as through begging, prostitution, or bonded labour. In purely economic terms, an adequate standard of living implies a living above the poverty line of the society concerned, which according to the World Bank comprises two elements:

The expenditure necessary to buy a minimum standard of nutrition and other basic necessities and a further amount that varies from country to country, reflecting the cost of participating in the everyday life of society.³

p. 189 2.1 Duties of the Individual

The enjoyment of the right to an adequate standard of living requires efforts by all individuals to take care of their own needs and the needs of their children, supplemented by social security from the state or other resources. These obligations of the state are subsidiary to the efforts made by the individual through their own work or income. State obligations only come fully into play when individuals cannot or do not manage by themselves to secure their own or their dependants' standard of living, for example if they cannot find employment, work, or other economic activity in the formal or informal sector or do not have sufficient assets for production or services of their own.

For most children, their standard of living depends primarily on that of their parents. If children do not have parents or their parents fail to support them, the state has an obligation to assist and ensure that they have adequate care.

In post-industrial societies, women are increasingly regaining their economic autonomy through formal employment, making them less dependent on the efforts of their husbands or their families, although in most societies the standard of living of families still depends on the joint effort of spouses. In pre-industrial societies, the elderly were to a large extent taken care of by their offspring, just as the elderly had taken care of their children. In post-industrial societies, this is no longer practical, due to increased mobility. The standard of living of the elderly has, therefore, increasingly been secured through various forms of social security, such as old-age pensions.

2.2 State Obligations

The nature of state obligations varies greatly, depending on prevailing political factors and the nature and level of the state's economic and social development. In most societies, there is a considerable difference between the role performed by the state regarding the realization of the right to food or to housing, on the one hand, and the realization of the right to health, on the other hand. In practical terms, in post-industrial societies food and housing are mainly considered to be private goods which people are generally expected to obtain through their own efforts, whereas the right to health is widely associated with publicly organized healthcare as a public good and, therefore, an obligation of the state. Nevertheless, states have obligations under international human rights law in regard to all social rights, although the precise content of these obligations may vary from one state to another.⁴

Under the right to an adequate standard of living, states must, first, *respect* the individual's freedom to find their own ways of ensuring their standard of living, alone or in association with others.

Second, states are obliged to *protect* individuals' freedom of choice and their creative use of resources to satisfy their basic needs. For example, states are required to provide protection against fraud, unethical behaviour in trade and contractual relations (for instance, unethical marketing of unhealthy ultra-processed junk food, especially to children), marketing of dangerous products, and dumping of hazardous waste. States are further obliged to protect against discrimination that directly or indirectly prevents particular groups of people from having access to food or housing or other related rights.

Third, where necessary, states are obliged to *fulfil* everyone's right to an adequate standard of living. This may take two forms. First, states may have to *facilitate*, through ↗ information, education, or other means, people's access to public resources to ensure their livelihood if they lack the opportunity to do so themselves. Second, states may have to directly *provide* the means for the satisfaction of basic needs (be it in the form of direct aid or social security) to supplement the efforts of individuals themselves. Extensive direct provision of resources may become necessary during periods of widespread unemployment (such as during a recession), sudden crises or disasters (arising, for example, from wars or the climate crisis), or in regard to the disadvantaged, the elderly, or other marginalized groups.

2.3 Equality and Non-Discrimination as an Overarching Principle

The duty of states to ensure equality and non-discrimination runs through all human rights instruments as a core principle and is essential to the enjoyment of economic, social, and cultural rights, including the right to an adequate standard of living. Article 2(2) ICESCR obliges states parties ‘to guarantee that the rights enunciated in the present Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’.

More specifically, Article 3 ICESCR requires states to ensure the equal right of men and women to enjoy all Covenant rights. The obligations arising from the principle of equality and non-discrimination have been elaborated by the Committee on Economic, Social and Cultural Rights in its General Comment 20.⁵ The Committee made it clear that states must eliminate formal and substantive, as well as direct and indirect, discrimination.⁶ The Committee has also elaborated the meaning of equality and non-discrimination in the context of specific Covenant rights, including the rights to housing,⁷ food,⁸ health,⁹ and water.¹⁰

3 Normative Content

This section explains the different elements of the right to an adequate standard of living, namely the rights to food, housing, and health. The main legal sources and different components of each of these rights are considered and challenges to their realization set out. However, these rights should not be seen in isolation, but need to be seen in conjunction with other rights such as the rights to work, education, and other rights that will be briefly touched upon in this chapter.

3.1 The Right to Food

At the core of the right to an adequate standard of living is the right to adequate food. Without food there is no life, and with inadequate food, life is shorter and more prone to ill-health. Access to adequate food and to food security has been a dominant concern in the evolution of civilizations and formation of states. Neglect or violation of the right to food is probably the most serious global human rights issue in terms of the number

^{p. 191} ↵ of people whose rights are not ensured. In their 2021 annual report on the state of food security and nutrition in the world, the UN Food and Agriculture Organization (FAO) and other UN agencies estimate that about 800 million people do not have enough to eat and that nearly three billion people cannot afford a healthy diet.¹¹ Access to clean water is of crucial importance for the enjoyment of all the elements of the right to an adequate standard of living, including the right to food, and is therefore also briefly dealt with in this section.

3.1.1 Sources

The right to food set out in Article 25 UDHR is further elaborated in Article 11 ICESCR. While Article 11(1) recognizes everyone’s right to adequate food, Article 11(2) obliges states parties to take more immediate and urgent steps to ensure ‘the fundamental right of everyone to be free from hunger’. The right to food is also contained in other international human rights instruments, such as the CRC (Articles 24 and 27), and in regional instruments such as in Article 12 of the Additional Protocol to the American Convention on Human

Rights in the Area of Economic, Social and Cultural Rights (Protocol of San Salvador). While the African Charter on Human and Peoples' Rights (ACHPR) does not contain an express reference to the right to food, the African Commission on Human and Peoples' Rights, in its decision in *SERAC v Nigeria*, has suggested that the right is implicit in the ACHPR because it is inextricably linked to human dignity and is essential for the enjoyment of other rights.¹²

3.1.2 Components and obligations

In its General Comment 12, the Committee on Economic, Social and Cultural Rights defined the right to food as follows: 'The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement'.¹³ According to the Committee, 'adequate food' implies, first, '*the availability* of food in a quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances, and acceptable within a given culture'.¹⁴ *Availability* means that either people must be able to feed themselves directly from natural resources or well-functioning distribution and processing systems must exist; *dietary needs* implies that the diet as a whole contains all the necessary nutrients for physical and mental growth, development, and maintenance; *free from adverse substances* sets requirements for food safety; and *cultural or consumer acceptability* implies the importance of also taking into account perceived non-nutrient-based values attached to food.¹⁵ Second, the right to food requires '*the accessibility* of such food in ways that are sustainable and that do not interfere with the enjoyment of other human rights',¹⁶ encompassing both physical and economic accessibility.¹⁷

The legal obligations of states parties to the ICESCR under the right to food have been interpreted by the Committee in paragraph 15 of the same General Comment:

The obligation to *respect* existing access to adequate food requires States parties not to take any measures that result in preventing such access. The obligation to *protect* requires measures by the State to ensure that enterprises or individuals do not deprive individuals of their access to adequate food. The obligation to *fulfil (facilitate)* means the State must pro-actively engage in activities intended to strengthen people's access to and utilization of resources and means to ensure their livelihood, including food security. Finally, whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfil (provide)* that right directly. This obligation also applies for persons who are victims of natural or other disasters.¹⁸

The Committee has pointed out that some of the measures required from states are of a more immediate nature, while others are more long term in character.¹⁹ The right to food is violated when a state fails to ensure the satisfaction of, at the very least, the minimum essential level required to be free from hunger. Resource constraints do not absolve the state from responsibility; it has to show that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, those minimum obligations.²⁰ Furthermore, any discrimination in access to food or to means and entitlements for its procurement constitutes a violation of Article 11 ICESCR.²¹ The Committee has emphasized that violations can occur through the direct action of states or by other entities insufficiently regulated by states. Non-state

actors, like private corporations and civil society organizations, also have responsibilities in the realization of the right to food. States should enable an environment that facilitates implementation of these responsibilities.²²

3.1.3 The right to water

An adequate standard of living requires access to adequate water for personal and domestic use. While the right to water is not expressly mentioned in either Article 11 or Article 12 CESCR, it is clearly implied. The availability and accessibility of safe and potable water throughout the day is essential for health. Water is required in producing, preparing, and consuming food. Water is necessary for personal hygiene and sanitation and is also, therefore, an integral part of the right to health.

The Committee on Economic, Social and Cultural Rights has spelled out the different components of the right to adequate water in its General Comment 15. According to the Committee, adequacy implies that the water supply for each person must be sufficient and continuous (*availability*), that water must be safe (*quality*), and that water and water facilities have to be within physical reach and affordable for all, without discrimination (*accessibility*).²³ The Committee has emphasized that the right to water includes freedoms, for example the right to be free from interferences such as disconnections or contamination of water supplies, as well as entitlements, such as the right to a system of water supply and management that provides equality of opportunity for people to enjoy the right to water.²⁴

3.1.4 Realization

Extensive and accelerating international attention has been paid to the right to food since the World Food Summit, held at the invitation of the FAO in Rome in 1996. At that summit, governments from all parts of the world declared it unacceptable that more than 800 million people throughout the world, particularly in developing countries, did not have enough food to meet their basic nutritional needs. They recognized that this was not the result of a lack of food supplies, which in fact had increased substantially, but due to a lack of physical or economic *access* to food. Governments at the summit committed themselves to achieving food security for all and to an ongoing effort to eradicate hunger in all countries, with an immediate view to reducing the number of undernourished people to half the 1996 level no later than the year 2015. Regrettably, this target was not met. In relative terms, however, the situation is more encouraging. The world now feeds a much larger population than it did in 1996. The problem is not an overall lack of food produced, but the inequality of access to it, together with enormous food waste.

Conditions differ widely between states, and the most appropriate ways in which to implement the right to adequate food also vary considerably. Nevertheless, all states parties to the ICESCR and the CRC are obliged to take the measures required to ensure that everyone is free from hunger, and thereupon move as quickly as possible to a situation where everyone can enjoy their right to adequate food. In so doing, the different levels of state obligations discussed here should be applied, using the particular combination of measures warranted by the national situation.

Therefore, ideally every state should have, or should develop, a national strategy to implement the right to food. This would include assessing the situation for different groups and regions within the country, taking into account variations on the basis of gender, ethnicity, or race, and between rural and urban areas. When resource constraints emerge, measures should be undertaken to ensure, as a minimum, that vulnerable population groups and individuals do not have to face hunger. In the elaboration and implementation of national strategies for the right to food, people's informed participation is essential. Thus, states must ensure that particular conditions in different regions of the country are taken into account.

In November 2004, the FAO Council adopted the 'Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security'.²⁵ The objective of these guidelines is to provide practical guidance to states in the realization of the right to food, based on the legal standards already mentioned. The guidelines deal with general enabling conditions, but more importantly, they include a set of practical measures to be carried out. These include measures relating to access to resources and assets (labour, land, water, genetic resources for food and agriculture, and so on), food safety and consumer protection, nutrition policies, education and awareness-raising, national monitoring, and the setting of benchmarks for progressive realization.²⁶ The guidelines also underline the importance of ensuring that national human rights institutions address the realization of the right to food as part of their work.²⁷ Finally, they contain a section on international measures, which deals with international cooperation and unilateral measures, the role of the international community, international trade, external debt, international food aid, partnerships with NGOs, civil society organizations, and the private sector (corporations, enterprises).

In following up on these guidelines, UN specialized agencies, funds, and programmes have attempted to translate relevant human rights norms into principles that can assist states in operationalizing development policies. The FAO developed and published a comprehensive set of practical methodologies for the many aspects of implementing the right to food at state and local levels, including with regard to relevant legislation and monitoring mechanisms. The UN Committee on World Food Security (UN CFS), originally a

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technical committee under the FAO, is, since its reform in 2009, a democratically run multi-stakeholder platform with a secretariat shared among the FAO, the World Food Programme (WFP), and the International Fund for Agricultural Development (IFAD). With other relevant UN bodies closely associated, and with special platforms for civil society organizations and business alliances, UN CFS is now considered the foremost inclusive international and intergovernmental platform for all stakeholders to work together to ensure food security and nutrition for all. Its global strategic framework has an explicit human rights value base. Over the last decade, it has published several documents that adopt a human rights perspective, including the UN Declaration on the Rights of Peasants and Other People Working in Rural Areas (UNDROP)²⁸ and the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security.²⁹

In contrast, the intergovernmentally negotiated 2021 UN Voluntary Guidelines on Food Systems and Nutrition recognized international human rights instruments, but did not attend to human rights-based approaches to guide policies and processes on the ground—reflecting a growing resistance from certain member states to development action driven by economic, social, and cultural rights.³⁰ The same was noted during the UN Food Systems Summit in New York in September 2021, which in the end nevertheless issued an extensive policy brief on the transformative potential of a human rights-based approach:

A human rights-based approach to food system transformation reinforces that food is a human right owed to all in all circumstances, without exception. It also recognizes that this right is inextricably linked to all other human rights, and that human rights principles of participation and inclusion, accountability, non-discrimination, transparency, equality and empowerment, and rule of law are critical to developing meaningful, inclusive, and coherent policy. Recognizing the universe of rights to which all humans are entitled, and the obligations owed by States and non-State actors is the first step in constructing a unified and holistic policy framework. Human rights are not optional or voluntary; international human rights law is binding and must be implemented accordingly. Implementation further requires concrete actionable policy commitments, including those that rebalance agency in food systems to empower local producers and promote the rights of the most vulnerable, excluded and marginalized, particularly women, children, peasants, small-scale producers, migrants, workers, and Indigenous peoples.³¹

3.2 The Right to Housing

Second only to the enjoyment of the right to food, an adequate standard of living requires that everyone has a place to live—a physical space which provides personal and family security, basic infrastructure, satisfactory privacy, necessary warmth on cold days, and protection against heat on warm days.

3.2.1 Sources

The right to housing forms part of the guarantees set out in Article 25 UDHR and Article 11 ICESCR. Furthermore, it is either expressly referred to or implied in other international instruments such as the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) (Article 5(e) (iii)), the CRC (Article 27), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (Article 14(2)), and the Convention Relating to the Status of Refugees (Article 21). At the regional level, the right to housing is contained in the European Social Charter (Article 31). As with the right to food, the African Commission on Human and Peoples' Rights held in its decision in *SERAC v Nigeria* that, although there is no express reference to the right to housing in the ACHPR, the Charter must be interpreted to include such a right.³²

3.2.2 Components and obligations

The Committee on Economic, Social and Cultural Rights has elaborated on the content of the right to housing in its General Comment 4.³³ In terms of the holders of the right, it has pointed out that the right applies to everyone. According to the Committee, the reference to 'himself and his family' in Article 11 ICESCR reflects traditional assumptions regarding gender roles and economic activity patterns, but cannot be read today as implying any limitations upon the applicability of the right to individuals or to female-headed households or collective groups. The concept of 'family' must, therefore, be understood in a wide sense and enjoyment of this right must not be subject to any form of discrimination.³⁴

Adequate housing requires more than mere shelter in the sense of having a roof over one's head—it must be seen as the right to live somewhere in security, peace, and dignity. According to the Committee, the requirements for adequate housing are the following:

- *Legal security of tenure*: whatever the type of tenure, all persons should possess a degree of security of tenure which provides legal protection against forced eviction, harassment, and other threats.
- *Availability of services, materials, facilities, and infrastructure*: this includes 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*: personal or household financial costs associated with housing should not be such that the attainment and satisfaction of other basic needs is threatened or compromised.
- *Habitability*: the housing must provide the inhabitants with adequate space and protection from cold, damp, heat, rain, wind, or other threats to health, structural hazards, and disease vectors.
- *Accessibility*: housing laws and policies must take into account the special needs of disadvantaged groups to ensure that such groups have full access to adequate housing resources.
- *Location*: adequate housing must be in a location which allows access to employment options, healthcare services, schools, childcare centres, and other social facilities.
- *Cultural adequacy*: the way housing is constructed, the building materials used, and the relevant policies must appropriately enable the expression of cultural identity and diversity of housing.³⁵

In market economies, housing is generally considered to be a private good. However, the right to housing implies that the state has a duty to protect against discrimination in access to housing and to facilitate access to housing for all. To that extent, human rights makes housing a public good. That does not necessarily mean that states have an obligation to  provide housing. Most people find their own way to obtain and secure their preferred place to live. As with other human rights, state obligations under the right to housing are a combination of passive and active duties. States have, first, a duty to *respect* the housing found by people themselves by abstaining from forcible evictions and displacements. Second, they must *protect* the tenure of existing housing against interference or unjustified evictions by third parties and adopt and enforce the necessary regulations to ensure the necessary quality of housing. Third, they have an obligation through regulatory functions to *facilitate* the opportunity of everyone to find affordable housing. Fourth, in exceptional circumstances and in regard to particularly vulnerable groups, they have to *provide* necessary housing when individuals or groups cannot manage to do so themselves. State measures to implement the right to housing will, therefore, normally reflect a mixture of provisions regulating the private sector ('enabling strategies') and public or state-driven measures (public housing). In essence, the obligation on states is to demonstrate that they have done enough to realize the right for every individual in the shortest possible time, prioritizing for that purpose the use of available resources.³⁶

3.2.3 Realization

The Committee on Economic, Social and Cultural Rights has pointed out that there remains a disturbingly large gap between the standards set out in Article 11(1) ICESCR and the situation prevailing in many parts of the world. This refers principally to developing countries, which confront major resource and other constraints, but there is also a significant and growing problem of homelessness and inadequate housing in some of the most economically developed societies. According to UN-Habitat estimates from 2020, there are 150 million homeless persons worldwide and 1.6 billion who are inadequately housed, millions of which are located in Europe and North America.

Besides homelessness, forced evictions (that is, evictions that are coercive or not carried out in accordance with pre-existing law) are the most severe violation of the right to housing. According to UN-Habitat, about 15 million persons are forcefully evicted every year. Forced evictions have been carried out against squatters, low-income renters, indigenous peoples, and other vulnerable groups with no or inadequate legal security of tenure. In its General Comment 7, the Committee on Economic, Social and Cultural Rights called for strict legislation to prevent unjustified evictions. Similarly, the Commission on Human Rights adopted a resolution in 2004 calling for a wide range of measures, including legislation, to prohibit forced evictions unless justified under strict limitations. It requested governments to eliminate the practice of forced evictions by: (1) repealing existing plans involving, as well as any legislation allowing for, forced evictions; and (2) adopting and implementing legislation ensuring the right to security of tenure for all residents.³⁷

No state party to the ICESCR is free of significant problems of one kind or another in relation to the right to housing. The Committee on Economic, Social and Cultural Rights has, therefore, expressed regret that many states do not acknowledge their difficulties in ensuring the right to adequate housing in their reports to the Committee.³⁸

3.3 The Right to Health

The term ‘right to health’ can be misleading. There is no human right to be healthy. Due to genetics, risky behaviour, accidents, and other factors, it is not within the capacity of states to ensure that everyone lives a full and lengthy life. What is envisaged in international human rights law is that everyone shall have a right to the highest attainable standard of health—attainable both in terms of the individual’s potential, the social and environmental conditions affecting the health of the individual, and in terms of health services. For reasons of convenience, this chapter refers to the ‘right to health’.

3.3.1 Sources

The right to health is provided for in Article 25 UDHR as part of an adequate standard of living. In the ICESCR, it is contained in a separate, comprehensive provision (Article 12). Further human rights standards on the right to health include Article 12 CEDAW, Article 5(e)(iv) ICERD, Article 24 CRC, Article 11 of the European Social Charter, Article 10 Protocol of San Salvador, and Article 16 ACHPR.

3.3.2 Components and obligations

Under Article 12(1) ICESCR, states parties recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The right to health extends to adequate healthcare, the underlying preconditions for health, and adequate fulfilment of the social determinants of health. Article 12(2) ICESCR sets out the main directions for state action in fulfilling this right. According to this provision, states must take steps for:

- (a) the provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) the improvement of all aspects of environmental and industrial hygiene; (c) the prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) the creation of conditions which would assure to all medical service and medical attention in the event of sickness.

In its General Comment 14, the Committee on Economic, Social and Cultural Rights has specified that the right to health involves the following elements and state obligations:

- **Availability:** states must ensure that functioning public health and healthcare facilities, goods, and services are available in sufficient quantity. The precise nature of these facilities, goods, and services will vary depending on numerous factors, including the state party's level of development.
- **Accessibility:** health facilities, goods, and services have to be accessible to everyone. Accessibility has four overlapping dimensions: (1) non-discrimination; (2) physical accessibility; (3) economic accessibility (affordability); and (4) information accessibility (the right to seek, receive, and impart information and ideas concerning health issues).
- **Acceptability:** all health facilities, goods, and services must be respectful of medical ethics and culturally appropriate, sensitive to gender and lifecycle requirements, as well as being designed to respect confidentiality and improve the health status of those concerned.
- **Quality:** health facilities, goods, and services must be scientifically and medically appropriate and of good quality. This requires, *inter alia*, skilled medical personnel, scientifically approved and unexpired drugs, appropriate hospital equipment, safe and potable water, and adequate sanitation.³⁹

The right to health requires states to adopt and implement measures ensuring the right of access to health

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facilities, goods, and services to all on a non-discriminatory basis, including to vulnerable or marginalized groups that otherwise might not have such access. This also requires the equitable distribution of health facilities, which are often concentrated in the main urban areas, leaving rural and less important urban areas unattended.

As the Committee has pointed out, a state is in violation of its obligation to protect individuals' health if it fails to take all necessary measures to safeguard persons within its jurisdiction from infringements of the right to health by third parties. This may include omissions such as the failure to discourage production, marketing, and consumption of tobacco, narcotics, and other harmful substances; the failure to discourage the continued observance of harmful traditional medical or cultural practices; or the failure to enact or enforce laws to prevent the pollution of water, air, and soil by extractive and manufacturing industries.⁴⁰

3.3.3 Realization

Realization of the right to health is closely linked to the realization of other economic and social rights. It is crucial that states ensure freedom from hunger and access for all to essential and sufficient food, which is nutritionally adequate and safe. The high level of child mortality, particularly in developing countries, is caused primarily by communicable diseases, insufficient or inadequate food, unsafe and polluted water, and the use of breast-milk substitutes under unhygienic conditions. Realization of the right to health depends on access to basic shelter, housing, food, and general sanitation, as well as an adequate supply of safe and potable water.

The Committee on Economic, Social and Cultural Rights has urged all states parties to adopt and implement a national public health strategy and plan of action, on the basis of epidemiological evidence, addressing the health concerns of the entire population. It has pointed out that the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process. They should include methods such as right-to-health indicators and benchmarks by which progress can be monitored, and should give particular attention to all vulnerable or marginalized groups. In addition, everyone should be ensured access to essential drugs as defined under the World Health Organization (WHO) Action Programme on Essential Drugs.⁴¹

Of key importance is, finally, the task of ensuring reproductive rights, maternal (prenatal as well as postnatal) healthcare, and child healthcare. Maternal mortality is the leading cause of death among women and girls of reproductive age. It is estimated that half a million women and girls die annually from complications related to pregnancy and childbirth. If pregnancy-related injuries and disabilities are included, such as haemorrhage, infection, brain seizures, hypertension, anaemia, and obstetric fistulae, it is probable that tens of millions of women and girls are affected.

Drawing on the relevant provisions of the UDHR, the WHO has made universal health coverage a major goal for its work with member states. The role of the state is crucial in directing resources for healthcare on an equal basis and in acting as a serious regulator in a number of situations where corporate and other economic interests can threaten full realization of the right to health for all.⁴²

4 Categories and Groups of People with Special Concerns

^{p. 199} Human rights, including the right to an adequate standard of living, should be equally applicable to everyone. In practice, however, it has proved necessary to pay special attention to the situation of some categories or groups of people, because they are vulnerable, have been neglected or marginalized, or have particular needs. It has been recognized that separate attention has to be given to the standard of living of different members of the family, including women and children. In addition, three particularly vulnerable groups of people will be discussed in this section: indigenous peoples, Dalits in South Asia, and the Roma in Europe.

4.1 Women

International human rights bodies have recognized that women may face greater difficulties than men in securing an adequate standard of living. The Committee on Economic, Social and Cultural Rights has, therefore, urged states to include in their national strategies to implement the right to food guarantees of women's full and equal access to economic resources, including the right to inheritance and ownership of land and other property, credit, natural resources, and appropriate technology. Such strategies should also contain measures to respect and protect self-employment and work which provides adequate remuneration to ensure a decent living for wage-earners and their families (as stipulated in Article 7(a)(ii) ICESCR).⁴³

Healthcare is of particular importance for motherhood and childhood. Article 12 CEDAW requires states to 'take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality between men and women, access to health care services, including those related to family planning' and to ensure women have access to appropriate services in connection with pregnancy, confinement, and the postnatal period. The Committee on Economic, Social and Cultural Rights has underlined the need to develop and implement a comprehensive national strategy for promoting women's right to health to meet these requirements. It has pointed out that the realization of women's right to health requires the removal of all barriers interfering with access to health services, education, and information, including in the area of sexual and reproductive health. It has also emphasized the importance of preventive, promotional, and remedial action to shield women from the impact of harmful traditional, cultural practices and norms that deny them their full reproductive rights.⁴⁴

Article 14 CEDAW requires states to pay special attention to the particular problems faced by rural women. In particular, states must ensure such women have the right to adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport, and communications. Furthermore, they must be given the right to participate in the elaboration and implementation of development planning at all levels and to have access to adequate healthcare facilities, including information, counselling, and services in family planning.

4.2 Children

Article 27 CRC provides 'the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development'. This involves adequate food, housing, nursing, and care. Article 27(2) provides that the parent(s) or others responsible for the child have the primary responsibility to secure the conditions of living necessary for the child's development.

While ensuring the child's right to an adequate standard of living is the primary duty of parents, this may not always be sufficient. According to Article 27(3) CRC, states must take appropriate measures to assist parents to implement this right. If necessary, they have to provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing. In addition, many children grow up in single-parent households, are orphaned, or have parents who have absconded or neglect their duty. In such situations, where other relatives do not take it over, the state has a duty to directly ensure for the child an adequate standard of living through appropriate institutions or placement with foster parents.

Under the right to health, states have a duty to diminish infant and child mortality. Article 12(2)(a) ICESCR expressly requires states to make ‘provision for the reduction of the stillbirth rate and of infant mortality and for the healthy development of the child’. Similar obligations are contained in Article 24(2)(a) CRC and flow from Article 6 CRC, which provides that every child has the inherent right to life and that states ‘shall ensure to the maximum extent possible the survival and development of the child’. This obligation may be understood as requiring measures to improve child and maternal health, sexual and reproductive health services, pre- and postnatal care, access to information, as well as to resources necessary to act on that information.

More generally, Article 24 CRC guarantees the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. Thus, states must ensure that no child is deprived of his or her right of access to healthcare services. Furthermore, they have an obligation to ensure the provision of necessary medical assistance and healthcare to all children, to combat disease and malnutrition, and to develop preventive healthcare. The obligation of states parties to combat disease and malnutrition reflects the dominant problems facing children in many developing countries. A large number of children, particularly in the poorer sector of the population, still die before the age of five, due to a combination of malnutrition, unsafe water and sanitation, and communicable diseases, although the figures are declining.⁴⁵ The risks can be substantially reduced through readily available technology such as oral rehydration therapy and immunization against the common childhood diseases. It is also essential to ensure provision of adequate nutritious food and clean drinking water.

4.3 Indigenous Peoples

The indigenous peoples of the world are generally among the most impoverished, because they have been marginalized to the frontiers of subsistence.⁴⁶ Many of them are struggling to maintain and preserve their own culture. Since much of their land and resources has been taken away from them, the little that is left cannot provide them with enough to satisfy an adequate standard of living. While efforts to strengthen their rights have had some positive results in recent years, such as the adoption in 1989 of the International Labour Organization (ILO) Convention on the Rights of Tribal and Indigenous Peoples (No 169) and in 2007 the adoption by the UN General Assembly of the Declaration on the Rights of Indigenous Peoples, they still suffer from severe deprivation. When they are displaced and live on ‘welfare’, their culture is undermined and the alien lifestyle leads to high degrees of alcoholism, suicide, and sometimes criminal behaviour. In line with the UN Declaration on the Rights of Indigenous Peoples, conditions must be established, including through recognition of their rights to land and natural resources, which enable them to preserve their culture while sustaining a livelihood that ensures for them an adequate standard of living. This close link between rights to land and natural resources, on the one hand, and economic survival, on the other hand, has been highlighted by the Inter-American human rights bodies in a number of cases.⁴⁷ In the *Yakye Axa Indigenous Community* case, the Inter-American Court of Human Rights held that Paraguay had violated the rights of the members of that community to live a dignified existence, which follows from the right to life, by delaying the restitution of their ancestral lands and thus making it difficult for them to obtain food, clean water, adequate housing, and healthcare.⁴⁸

The Committee on Economic, Social and Cultural Rights has repeatedly addressed the problems faced by indigenous peoples in its General Comments. It has drawn attention to the particular vulnerability of indigenous peoples whose ancestral land may be threatened. In several places, corporations involved in oil or other mineral extraction have aggravated the situation of indigenous peoples, degraded their land, and caused their displacement.⁴⁹ The Committee has also emphasized that as part of their obligations to protect people's resource base for food, states parties should take appropriate steps to ensure that activities of the private business sector are in conformity with the right to food.⁵⁰ With regard to the right to housing, it has pointed out that indigenous peoples are among those vulnerable groups who suffer most from evictions.⁵¹ Finally, the Committee has called on states to take particular care to ensure that indigenous peoples and ethnic and linguistic minorities are not excluded from social security systems through direct or indirect discrimination, particularly through the imposition of unreasonable eligibility conditions or lack of adequate access to information.⁵²

Indigenous peoples often live in remote areas with the lowest level of access to modern healthcare, and when they can reach healthcare stations there is often a poor understanding of, and respect for, their cultural requirements. The Committee has argued that indigenous peoples have the right to specific measures to improve their access to health services and care. Health services should be culturally appropriate and thus take into account traditional preventive care, healing practices, and medicines. States should provide resources for indigenous peoples to design, deliver, and control such services. The Committee has noted that, in indigenous communities, the health of the individual is often linked to the health of the society as a whole and has a collective dimension. Therefore, development-related activities that lead to the displacement of indigenous peoples, denying them their sources of nutrition and breaking their symbiotic relationship with their lands, have a deleterious effect on their health.⁵³

4.4 Dalits in South Asia and Roma in Europe

Many other minorities are subject to persistent discrimination, undermining their standard of living. These include the low-castes or Dalits in South Asia—particularly in India—who, as a result of social practices, are often marginalized, deprived of access to the means of adequate food and housing, and given access only to the lowest, most menial work. While such practices are generally prohibited under the respective national laws, enforcement of the law is often weak and segments of the police and other law enforcement agencies are themselves socialized in the same discriminatory attitudes that keep such practices alive. In its General Comment 20 of 2009, the Committee on Economic, Social and Cultural Rights pointed out that the prohibited ground of discrimination of 'birth' listed in Article 2(2) ICESCR also includes descent, especially on the basis of caste and analogous systems of inherited status. Therefore, states parties should take steps to prevent, prohibit, and eliminate discriminatory practices directed against members of descent-based communities and act against dissemination of ideas of superiority and inferiority on the basis of descent.⁵⁴

A somewhat comparable situation exists in many parts of Europe, where the Roma and the Sinti are subject to widespread social discrimination, and where governments are unable fully to eradicate these practices. In 2012, the Commissioner for Human Rights of the Council of Europe presented a comprehensive report detailing extensive racially motivated violence against Roma and Travellers, police abuse of these groups, discrimination in access to adequate housing and to employment, denial of and discrimination by emergency

medical health services and by health providers, exclusion from healthcare as a result of physical distance from healthcare facilities, and serious impediments to their access to social security.⁵⁵ Multiple initiatives have been taken by the Council of Europe, the European Union, and by the Organization for Security and Co-operation in Europe (OSCE), but the persistent prejudices against, and exclusion of, the Roma and Sinti have made progress difficult.

5 Relationship With Other Human Rights

As pointed out in the conclusions of the 1993 Vienna World Conference on Human Rights, '[a]ll human rights are universal, indivisible, interdependent and interrelated'.⁵⁶ It is easy to show that the right to an adequate standard of living is closely linked to other human rights. Most obviously, it is heavily dependent on the realization of other economic and social rights, such as the rights to work, education, and property. Of particular importance is the right to social security, dealt with in Section 5.1.

The right to an adequate standard of living is also linked to cultural rights, which, according to Article 27 UDHR and Article 15 ICESCR, contain the following elements: the right to take part in cultural life, the right to enjoy the benefits of scientific progress and its applications, the right to benefit from the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which the beneficiary is the author, and the freedom indispensable for scientific research and creative activity.⁵⁷ These rights intersect in several ways with the right to an adequate standard of living. To mention one example: the right to benefit from advances in scientific progress can be a basis for claiming a right of access to affordable new medicine, which may be crucial in treating diseases such as AIDS or COVID-19.⁵⁸

p. 203 ↵ Finally, as explained in Section 5.2, the right to an adequate standard of living may also coincide or, on the other hand, clash with civil and political rights.

5.1 The Right to Social Security and Social Assistance

The right to social security is essential when people are not able to secure an adequate standard of living themselves, particularly when they do not have the necessary assets or are not able to work due to unemployment, old age, or disability. The drafters of the UDHR considered social security to be one of the core guarantees for the right of everyone to an adequate standard of living.

The general guarantee of an adequate standard of living set out in Article 25 UDHR includes 'the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control'. But the UDHR also contains a separate guarantee of the right to social security that uses stronger terms. Article 22 states that '[e]veryone, as a member of society, has the right to social security'. The ICESCR, in Article 9, guarantees 'the right of everyone to social security, including social insurance', while Article 10 of the same covenant refers to social security within the context of the protection of the family, mothers, and children. CEDAW contains a range of social security guarantees relevant to women, including the right of women to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age, and other incapacity to work, as well as the right to paid leave (Article 11(1) (e)), the right to family benefits (Article 13(a)), and the right of rural women to benefit directly from social

security programmes (Article 14(2)(c)). The CRC provides for the right of the child to benefit from social security, including social insurance (Article 26). The right to social security is also explicitly mentioned in regional human rights instruments, including the American Declaration of the Rights and Duties of Man (Article XVI), the Protocol of San Salvador (Article 9), and the European Social Charter (Articles 12, 13, and 14).

Social security must be distinguished from social assistance and charity. Charity is irrelevant in the present context, because it involves neither a right of the individual nor a duty imposed on the state. It is, therefore, not a human rights issue. Social assistance is often discretionary and, therefore, neither a right nor a duty.

Measures to implement the right to social security as set out in Article 9 ICESCR can include contributory or non-contributory schemes, or a combination of the two. The Committee on Economic, Social and Cultural Rights, in its General Comment 19, has defined these two types of provision of social security benefits as follows. *Contributory* (or insurance-based) schemes, such as social insurance, which is expressly mentioned in Article 9, generally involve compulsory contributions from beneficiaries, employers, and, sometimes, the state, in conjunction with the payment of benefits and administrative expenses from a common fund. *Non-contributory* schemes include universal schemes, which provide the relevant benefit to everyone who experiences a particular risk or contingency, and targeted social assistance schemes, where benefits are received by those in a situation of need.

In recent years, an embryonic form of social security under the name of ‘cash transfer programmes’ has emerged, particularly in the least developed countries where the social security system has limited reach. The cash transfers may take the form of non-contributory old-age pensions, disability grants, child support grants, widow’s allowances, or household transfers to persons in poverty. These programmes are now subject to international monitoring under the heading of the need to safeguard a social protection floor.

p. 204 ↵ The Committee on Economic, Social and Cultural Rights has expressed its concern over the low levels of access to social security.⁵⁹ The ILO provides guidance to member states in building comprehensive social security systems and in extending social security coverage by prioritizing the establishment and advancement of the national floors of social protection, accessible to all in need. Social protection floors should ‘ensure at a minimum that, over the life cycle, all in need have access to essential health care and to basic income security which together secure effective access to goods and services defined as necessary at the national level.’⁶⁰

In 2020, the European Union (EU) together with the ILO and UNICEF took the initiative to establish the Global Coalition for Social Protection Floors, an innovative partnership with several African and Asian states designed to promote better coverage of health, food, and social security.⁶¹ According to the mandate behind this coalition, social protection is not only a human right but also an imperative investment. A social protection floor can gradually be given additional resources, often with high returns on the investments made, reducing the level of crime in society. It may also serve as a buffer against dependency and facilitate social integration.

In 2021, the Special Rapporteur on Extreme Poverty, Olivier De Schutter, therefore proposed the establishment of a Global Fund for Social Protection:

A global fund for social protection should be set up to increase the level of support to low-income countries, thus helping them both to establish and maintain social protection floors in the form of legal entitlements, and to improve the resilience of social protection systems against shocks. Such a fund is affordable, whether funding comes from official development assistance or from other sources, including unused or new special drawing rights. Moreover, social protection should be seen as an investment with potentially high returns, since it leads to building human capital, has significant multiplier effects in the local economy, and contributes to inclusive growth and to resilience in times of crisis.⁶²

According to that proposal, the Global Fund should gradually make international support redundant, and can be phased out once countries have enhanced their capacity to raise taxes progressively and to redistribute them equitably in the form of universal social protection. It can therefore be an important device against the effects of excessive globalization.

5.2 Civil and Political Rights

Civil and political rights are essential in order to achieve the realization of an adequate standard of living in practice. When rights to housing or food are unjustifiably denied, everyone, including the poor, must have effective access to remedies before independent courts or other institutions such as human rights commissions. In some parts of the world, civil and political rights have been extensively used to advance the realization of economic and social rights, including the right to an adequate standard of living.

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6 Progressive Implementation

It is obvious that the right of everyone to an adequate standard of living is still far from realized. Around 800 million people are chronically hungry, and at least one billion have substandard housing or no housing at all. The problem of homelessness is also growing in 'rich' countries. It is therefore encouraging that there is now a consensus to ensure the safeguarding of the social protection floor, as discussed earlier. This can help to reduce the enormous gaps between the standards set by international human rights law and the reality that many people face. This is also the case for many civil and political rights. Some may consider that human rights that are not applied in practice do not deserve the name 'rights'.

It has to be borne in mind that the UDHR was proclaimed as a 'common standard of achievement'.⁶³ All human rights set out in it, including the economic and social rights, must be realized through progressive measures. These measures must be taken at the national as well as the international level: the right to an adequate standard of living cannot be fully realized unless the world community and states cooperate towards global justice.

Article 2 ICESCR envisages a progressive realization of the Covenant rights and acknowledges the constraints due to the limited available resources. However, it also imposes obligations which are of immediate effect. In particular, states parties must guarantee that the rights will be exercised without discrimination of any kind and must take immediate and progressive steps towards full realization of the relevant rights by all

appropriate means, including particularly the adoption of legislative measures. The Committee on Economic, Social and Cultural Rights has pointed out that such steps should be deliberate, concrete, and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.⁶⁴

Full realization would require that human rights are given priority in development processes. Regrettably, this has often not been the case. Both at the national and international level, there are serious maldevelopments.

As previously explained, violations imputable to the state can occur either by direct action by the state and its agencies or by its failure to ensure rights. The Committee on Economic, Social and Cultural Rights has pointed out that in determining which actions or omissions amount to a violation, it is important to distinguish the inability of a state party to comply from its unwillingness to do so. Should, for instance, a state party argue that resource constraints make it impossible to provide access to food for those who are unable by themselves to secure such access, then it has to demonstrate that every effort has been made to use all the resources at its disposal in an effort to satisfy, as a matter of priority, its minimum obligations. A state claiming that it is unable to carry out its obligation for reasons beyond its control has the burden of proving that this is the case and that it has unsuccessfully sought to obtain international support to ensure the availability and accessibility of the necessary food.

7 The Importance of International Monitoring and Recourse Procedures

Most states have some legislation relating to the rights to food, housing, and health. However, such legislation is often fragmented, does not guarantee them as proper entitlements, and is often weakly enforced p. 206 or not enforced at all. International economic, social, and cultural rights constitute a comprehensive normative framework that should guide the content of national legislation in this area. In the absence of sufficient national legislation or its enforcement, the economic, social, and cultural rights contained in international instruments can play an important role for the individual. But are these rights justiciable? Behind this widely discussed question is a more fundamental one: what is the nature of international economic, social, and cultural rights?

The answer is not as difficult as is often thought. International human rights law serves two functions. First, it provides directive principles. Second, under some conditions, it provides subjective rights or genuine entitlements, provided national courts treat them as such. National courts have, to an increasing extent, enforced international guarantees of economic, social, and cultural rights.⁶⁵ This issue is further discussed in Chapter 24, so the discussion here will focus on the first issue.

The notion of directive principles is well known from constitutional law in some states. In India, for example, directive principles of state policy are contained in the constitution as guidelines to the central and state governments, to be considered when framing laws and policies. These provisions are not directly enforceable by any court, but they are considered to be fundamental principles of governance that should be applied by state authorities.⁶⁶ Similar principles are also found in other constitutions, such as that of Ireland, which focus on social justice and economic welfare. Such directive principles play an important role in the political

process in these states, but there are normally no national monitoring authorities supervising their implementation. In addition, they are often general and vague in their wording and, therefore, leave a wide margin for political disagreement concerning their implementation.

This is where international human rights law, and in particular guarantees of economic, social, and cultural rights, have an important additional value. International monitoring bodies, such as the human rights treaty bodies and the special procedures of the Human Rights Council, can pursue a dialogue with each state on the optimal implementation of the directive principles, and can elaborate and clarify the content of state obligations under international human rights standards. This is what the Committee on Economic, Social and Cultural Rights has done by issuing its General Comments, several of which concern the right to an adequate standard of living, and by adopting concluding observations and recommendations upon examination of state reports.

The monitoring through examination of state reports has been supplemented by a procedure created by the Optional Protocol to the ICESCR, which was adopted in 2008 and came into force in 2013. Under the Optional Protocol, individuals who claim that their economic, social, and cultural rights have been violated can bring a complaint to the Committee after having exhausted available domestic remedies.

The UN Human Rights Council and its predecessor, the Commission on Human Rights, have developed important thematic mechanisms to report on and promote the implementation of the right to an adequate standard of living. The Special Rapporteurs or Independent Experts—on the right to food, the right to housing, the right to health, the right to water, and the elimination of extreme poverty—play a very important role in advancing the enjoyment of the right to an adequate standard of living. They highlight in their reports shortcomings and progress in the implementation of the right to an adequate standard of living in different parts of the world. Thereby, they make a significant contribution to the worldwide realization of this right.

p. 207 ↵ Finally, UN specialized agencies, programmes, and funds are occupied with strengthening and monitoring accountability of their proposed policies and actions, with human rights being the variable that depends on the backing of member states. One problem has been the lack of logical and robust indicators in food and nutrition systems that are linked with human rights principles. A promising step forward is a 2021 publication by the FAO that ‘highlights the main functions of the law supporting sustainable agri-food systems that promote healthy diets and improve nutrition’.⁶⁷

8 Conclusion

Intended to promote and ensure freedom from want, the right to an adequate standard of living was given a central place in the proclamation of universal human rights from the very beginning in 1948. It has since been elaborated in international standards and clarified in detailed General Comments and practice. Several guidelines have been adopted for the implementation of the different components of an adequate standard of living, namely, the rights to food, water, housing, and health. The relevant international human rights

standards serve both as directive principles and as subjective rights. While their main function has been as directive principles pursued through international monitoring and reporting, there is an emerging trend also to use them as subjective rights by adjudicative bodies.

Gaps remain in the implementation of the right to an adequate standard of living. However, by adopting the 17 Sustainable Development Goals at the UN Summit on Sustainable Development in 2015, the international community has prioritized the need to ensure an adequate living standard for all. The three first-mentioned goals to be achieved by 2030 are: (1) to end poverty; (2) to achieve zero hunger; and (3) to ensure good health and well-being for all.⁶⁸ Obviously, realization of these goals must be combined with the achievement of the other 14 Sustainable Development Goals, but the fact that these three goals are listed first, highlights the importance given to the right of everyone to an adequate standard of living.

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10. Adequate Standard of Living

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WINKLER, *The Human Right to Water: Significance, Legal Status and Implications for Water Allocation* (Hart, 2012).

Useful Websites

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UN Special Rapporteur on the right to food: <<http://www.ohchr.org/EN/Issues/Food><[>](http://www.ohchr.org/EN/Issues/Food)

UN Special Rapporteur on adequate housing as a component of the right to an adequate standard of living: <<http://www.ohchr.org/EN/Issues/Housing><[>](http://www.ohchr.org/EN/Issues/Housing)

UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health: <<http://www.ohchr.org/EN/Issues/Health><[>](http://www.ohchr.org/EN/Issues/Health)

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Questions for Reflection

In relation to former US President Franklin D Roosevelt's 'Four Freedoms' speech of 1941, to what extent do you think that the 'freedom from want' has been realized today? Organize your thinking around the following questions:

1. What do you see as falling under the term 'want'?
2. What information do you think is needed to find out how different groups of people experience freedom from want?
3. Who has obligations or responsibilities for realizing this freedom?
4. To what extent can Roosevelt's other three freedoms influence freedom from want?

Notes

¹ On the origin of Roosevelt's concern with freedom from want, see McGovern, *The Third Freedom: Ending Hunger in Our Time* (Simon & Schuster, 2001).

² UDHR, second preambular para (emphasis added).

³ World Bank, *World Development Report 1990* (OUP, 1990) 26. See also Chapter 30.

⁴ On the origins of the analysis that follows, see Eide, 'State Obligations Revisited' in Eide and Kracht (eds), *Food and Human Rights in Development, Vol I* (Intersentia, 2005) 137. See also Chapter 7.

⁵ CESCR, General Comment 20, E/C.12/GC/20 (2 July 2009).

⁶ See Chapter 8 for an explanation of these concepts.

⁷ CESCR, General Comment 4, HRI/GEN/1/Rev.9 (Vol I) 11; CESCR, General Comment 7, HRI/GEN/1/Rev.9 (Vol I) 38.

⁸ CESCR, General Comment 12, HRI/GEN/1/Rev.9 (Vol I) 55.

⁹ CESCR, General Comment 14, HRI/GEN/1/Rev.9 (Vol I) 78.

¹⁰ CESCR, General Comment 15, HRI/GEN/1/Rev.9 (Vol I) 97.

¹¹ FAO, IFAD, UNICEF, WFP, and WHO, *The State of Food Security and Nutrition in the World: Transforming Food Systems for Food Security, Improved Nutrition and Affordable Healthy Diets for All* (2021).

¹² Communication No 155/96, 16th Activity Report of the ACommHPR (2002–2003).

¹³ CESCR, General Comment 12, para 6.

¹⁴ CESCR, General Comment 12, para 8 (emphasis added).

¹⁵ CESCR, General Comment 12, paras 9–12.

¹⁶ CESCR, General Comment 12, para 8 (emphasis added).

¹⁷ CESCR, General Comment 12, para 13.

¹⁸ Original emphases.

¹⁹ CESCR, General Comment 12, para 16.

²⁰ CESCR, General Comment 12, para 17.

²¹ CESCR, General Comment 12, para 18.

²² CESCR, General Comment 12, paras 19–20. See also UN Guiding Principles on Business and Human Rights (2011) and Chapter 28.

²³ CESCR, General Comment 15, para 12.

²⁴ CESCR, General Comment 15, para 10.

²⁵ <<http://www.fao.org/docrep/meeting/009/y9825e/y9825e00.htm>>.

²⁶ FAO Council, Guidelines 8–17.

²⁷ FAO Council, Guideline 18.

²⁸ Adopted by the Human Rights Council on 28 September 2018, A/HRC/RES/39/12.

²⁹ <<http://www.fao.org/3/i2801e/i2801e.pdf> <<http://www.fao.org/3/i2801e/i2801e.pdf>>>.

³⁰ UN CFS, UN Voluntary Guidelines on Food Systems and Nutrition, February 2021.

³¹ UN Food Systems Summit 2021, Human Rights Lever of Change: Unlocking the transformative potential of a human rights-based approach, available (under ch 2) at <<https://foodsystems.community/food-systems-summit-compendium>>.

³² Communication No 155/96, 16th Activity Report of the ACommHPR (2002–2003).

³³ CESCR, General Comment 4.

³⁴ CESCR, General Comment 4, para 6.

³⁵ CESCR, General Comment 4, para 8.

³⁶ CESCR, General Comment 4, para 14.

³⁷ CHR Res 2004/28, E/CN.4/RES/2004/28 (16 April 2004) para 2.

³⁸ CESCR, General Comment 4, para 4.

³⁹ CESCR, General Comment 14, para 12.

⁴⁰ CESCR, General Comment 14, para 51.

⁴¹ CESCR, General Comment 14, para 43.

⁴² See Meier and Gostin (eds), *Human Rights in Global Health: Rights-Based Governance for a Globalizing World* (OUP, 2018).

⁴³ CESCR, General Comment 12, para 26.

⁴⁴ CESCR, General Comment 14, para 21.

⁴⁵ The global under-five mortality rate declined by 59 per cent, from 93 deaths per 1,000 live births in 1990 to 38 in 2019. Despite this considerable progress, improving child survival remains a matter of urgent concern.

⁴⁶ For the definition of ‘indigenous peoples’, see Chapter 18.

⁴⁷ See Case 11.140, *Mary and Carrie Dann v United States*, IACtHR Report No 75/02 (27 December 2002); *Mayagna (Sumo) Awas Tingni Community v Nicaragua*, IACtHR Series C No 79 (31 August 2001); *Yakye Axa Indigenous Community v Paraguay*, IACtHR Series C No 125 (17 June 2005).

⁴⁸ *Yakye Axa Indigenous Community*, paras 164–8 and 176.

⁴⁹ CESCR, General Comment 12, para 13.

⁵⁰ CESCR, General Comment 12, para 27.

⁵¹ CESCR, General Comment 7, para 10.

⁵² CESCR, General Comment 19, HRI/GEN/1/Rev.9 (Vol I) 152, para 35.

⁵³ CESCR, General Comment 14, para 27.

⁵⁴ CESCR, General Comment 20, para 26.

⁵⁵ Commissioner for Human Rights of the Council of Europe, *Human Rights of Roma and Travellers in Europe* (Council of Europe Publications, 2012).

⁵⁶ Vienna Declaration and Programme of Action, A/CONF.157/23 (25 June 1993) para 5. See Chapter 7 and Eide, 'Interdependence and Indivisibility of Human Rights' in Donders and Volodin (eds), *Human Rights in Education, Science and Culture* (UNESCO Publishing/Ashgate, 2007).

⁵⁷ See Chapter 14. See also CESCR, General Comment 25, E/C.12/GC/25 (30 April 2020) paras 63–71.

⁵⁸ See Chapter 32.

⁵⁹ CESCR, General Comment 19, paras 7 and 8.

⁶⁰ ILO, Social Protection Floors Recommendation, 2012 (No 202) para 4.

⁶¹ ILO, The Global Coalition for Social Protection Floors, the ILO and UNICEF join forces to expand social protection for all through sustainable financing (1 December 2020), <http://www.ilo.org/secsoc/information-resources/WCMS_762713/lang--en/index.htm>.

⁶² Global fund for social protection: international solidarity in the service of poverty eradication, Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter, A/HRC/47/36 (22 April 2021) 1.

⁶³ UDHR, preambular para 8.

⁶⁴ CESCR, General Comment 3, HRI/GEN/1/Rev.9 (Vol I) 7, para 2.

⁶⁵ See Langford (ed), *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law* (CUP, 2008).

⁶⁶ See further Chapter 24.

⁶⁷ FAO, Transforming agri-food systems: Legislative interventions for improved nutrition and sustainability (July 2021), vii, <<https://www.fao.org/3/cb6016en/cb6016en.pdf>>.

⁶⁸ GA Res 70/1 (25 September 2015). See Chapter 30.

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