

2. Basic Content of ESCR

Despite widespread acceptance of ESCR in international law, their actual content and meaning is still in the process of development. During the Cold War they were neglected by international organizations and Western governments in favor of civil and political rights, which as a result have a more fully developed practical content.¹ In recent years, however, a wide range of advocacy groups have made ESCR meaningful to people on the ground by working to hold states and other parties accountable for specific policies that result in violations. This process of rights-claiming by affected communities is the most important force in shaping the content and meaning of ESCR.

There is also a growing body of jurisprudence on ESCR. This jurisprudence has been developed by legal scholars, courts at the local, national, and regional levels, and international legal bodies such as the UN Committee on Economic, Social and Cultural Rights (the Committee is a group of experts that meets periodically to monitor compliance with the Covenant).² For example, the Committee has issued a series of general comments elaborating the legal content of specific rights (housing, food, education),³ as has another UN human rights body, the Sub-Commission on Prevention of Discrimination and Protection of Minorities (food, housing).⁴

These diverse efforts have helped create a broad consensus on the basic content of ESCR. Some key rights are described briefly below:

- The right to education guarantees free and compulsory primary education and equal access to secondary and higher education.
- The right to health guarantees access to adequate health care, nutrition, sanitation, and to clean water and air.
- The right to housing guarantees access to a safe, habitable, and affordable home with protection against forced eviction.
- The right to food guarantees the ability of people to feed themselves, and also obligates states to cooperate in the equitable distribution of world food supplies.
- The right to work guarantees the opportunity to earn a living wage in a safe work environment, and also provides for the freedom to organize and bargain collectively.

International law also includes several procedural rights that make it possible for people to enforce their substantive ESCR and make them meaningful. These include:

¹ Mutua, "Human Rights Ideology," in the *University of Virginia International Law Journal* 36:589 (1996). Philip Alston, one of the leading experts in ESCR, has criticized this imbalanced approach to human rights work: "Non-governmental organizations in the human rights field should urgently consider what can be done to remedy the present situation in which the great majority of NGOs pay little more than lip service to economic, social and cultural rights." Alston, "Denial and Neglect" in Roach, ed., *Human Rights: The New Consensus* (London: Regency Press, 1994), p. 112.

² See, Alston and Quinn, "The Nature and Scope of States Parties' Obligations Under the International Covenant on Economic, Social and Cultural Rights" in *Human Rights Quarterly*, vol. 9, no. 2, 1987; Craven, see note 3.

³ General Comment 4 of the Committee on Economic, Social and Cultural Rights, U.N. Doc.E/C.12/1991/23; General Comment 7 of the Committee on Economic, Social and Cultural Rights, U.N. Doc.E/C.12/1997/4; General Comment 11 of the Committee on Economic, Social and Cultural Rights, U.N. Doc. E/C.12/1999/4; General Comment 12 of the Committee on Economic, Social and Cultural Rights, U.N. Doc. E/C.12/1999/5.

⁴ See, Eide, Report on the Right to Adequate Food as a Human Right, UN Doc. E/CN.4/Sub.2/1987/23; Sachar, UN Special Rapporteur on the Human Right to Adequate Housing, Final Report: E/CN.4/Sub.2/1995/12).

- The right to participation in policy decisions that affect one's human rights. This extends beyond voting rights to include public access to government decision-making processes such as the formulation of national budgets.
- The right to information necessary to participate in national and local affairs. This requires government transparency in providing public information on issues such as major development projects or potential health hazards.
- The right to effective remedies from domestic courts. Legal recourse is central to every human right. It requires governments not only to recognize that people have human rights in the first place, but also to incorporate human rights into domestic law and enforce them through a fair and impartial judicial system.

It should be emphasized that the process of defining and elaborating the content of ESCR is an ongoing and dynamic one. Decades of neglect by governments and even NGOs have left the field of ESCR with a range of vague legal standards and norms that have rarely been implemented and enforced. As is the case with any rights, the real importance of ESCR lies in their actual and potential impact on people's daily lives. Rights are exercised by people; only people can make them meaningful through the process of demanding freedom, economic welfare, and all the other ideals that human rights embody.