

## **Minimum Core Obligations – The Practice of the UN Committee on Economic, Social and Cultural Rights**

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## Contents

Executive summary .....	3
Right to work (Article 6).....	3
The right of everyone to the enjoyment of just and favourable conditions of work (Article 7).....	4
The right of everyone to form trade unions and join the trade union (Article 8) .....	5
The right to social security (Article 9) .....	5
The rights of families, mothers and children (Article 10).....	6
Right to food (Article 11) .....	6
Right to clothing (Article 11) .....	6
Right to housing (Article 11).....	7
Right to water (Articles 11 and 12).....	7
Right to health (Article 12) .....	8
Right to sexual and reproductive health (Article 12) .....	9
Right to education (Articles 13 & 14).....	10
Right of everyone to take part in cultural life (Article 15) .....	11
The right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author (Article 15).....	12
The right to participate in and to enjoy the benefits of scientific progress and its applications (Article 15) .....	12

## **Executive summary**

The Commission presents the following paper to guide duty-bearers and rights holders on the current international legal standards in relation to minimum core obligations.

Minimum core obligations are those obligations related to economic, social and cultural rights, which a country needs to comply with at all times and in all circumstances, regardless of their resources or the overall conditions of a country. If they are not complied with, a country is not meeting their obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR).

According to the UN Committee on Economic, Social and Cultural Rights, minimum core obligations are those obligations that ensure the satisfaction – at the very least – of minimum essential levels of each right. If they are not met, the purpose of the Covenant (the ‘raison d’être’) disappears.<sup>1</sup>

The purpose of the minimum core obligation is to recognise that although the implementation of economic, social and cultural rights require resources that are not always available, there are certain obligations that are of such importance that states need to act as a matter of priority to fulfil them. Therefore, states have irreducible obligations to meet, regardless of the availability of resources or any other factors and difficulties.<sup>2</sup>

The UN Committee has developed what the minimum core obligations of each right are through various General Comments. After reviewing the last 30 years of the Committee’s practice, the present paper collates in one single document the full range of minimum core obligations applicable to countries that have ratified the ICESCR.

## **Right to work (Article 6)**

1. To ensure the right of access to employment, especially for disadvantaged and marginalised individuals and groups, permitting them to live a life of dignity;
2. To avoid any measure that results in discrimination and unequal treatment in the private and public sectors of disadvantaged and marginalised individuals and groups or in weakening mechanisms for the protection of such individuals and groups;
3. To adopt and implement a national employment strategy and plan of action based on and addressing the concerns of all workers on the basis of a participatory and transparent process that includes employers' and workers' organisations. Such an employment strategy and plan of action should target disadvantaged and marginalised individuals and groups in particular and include indicators and benchmarks by which progress in relation to the right to work can be measured and periodically reviewed.<sup>3</sup>

## **The right of everyone to the enjoyment of just and favourable conditions of work (Article 7)**

1. Guarantee through law the exercise of the right without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, disability, age, sexual orientation, gender identity, intersex status, health, nationality or any other status;
2. Put in place a comprehensive system to combat gender discrimination at work, including with regard to remuneration;
3. Establish in legislation and in consultation with workers and employers, their representative organisations and other relevant partners, minimum wages that are non-discriminatory and non-derogable, fixed by taking into consideration relevant economic factors and indexed to the cost of living so as to ensure a decent living for workers and their families;

4. Adopt and implement a comprehensive national policy on occupational safety and health;
5. Define and prohibit harassment, including sexual harassment, at work through law, ensure appropriate complaints procedures and mechanisms and establish criminal sanctions for sexual harassment;
6. Introduce and enforce minimum standards in relation to rest, leisure, reasonable limitation of working hours, paid leave and public holidays.<sup>4</sup>

## **The right of everyone to form trade unions and join the trade union (Article 8)**

The UN Committee on Economic, Social and Cultural Rights has not developed any minimum core obligations in relation to The right of everyone to form trade unions and join the trade union.

## **The right to social security (Article 9)**

1. To ensure access to a social security scheme that provides a minimum essential level of benefits to all individuals and families that will enable them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs, and the most basic forms of education. If a State party cannot provide this minimum level for all risks and contingencies within its maximum available resources, the Committee recommends that the State party, after a wide process of consultation, select a core group of social risks and contingencies;
2. To ensure the right of access to social security systems or schemes on a non-discriminatory basis, especially for disadvantaged and marginalised individuals and groups;

3. To respect existing social security schemes and protect them from unreasonable interference;
4. To adopt and implement a national social security strategy and plan of action;
5. To take targeted steps to implement social security schemes, particularly those that protect disadvantaged and marginalised individuals and groups;
6. To monitor the extent of the realisation of the right to social security.<sup>5</sup>

## **The rights of families, mothers and children (Article 10)**

UN Committee on Economic, Social and Cultural Rights has not developed any minimum core obligations in relation to the rights of families, mothers and children.

### **Right to food (Article 11)**

1. Take the necessary action to mitigate and alleviate hunger as provided for in paragraph 2 of article 11 of the Covenant, even in times of natural or other disasters;<sup>6</sup>
2. Ensure access to the minimum essential food which is sufficient, nutritionally adequate and safe, to ensure their freedom from hunger;<sup>7</sup>
3. Ensure that no significant number of individuals are deprived of essential foodstuffs.<sup>8</sup>

### **Right to clothing (Article 11)**

UN Committee on Economic, Social and Cultural Rights has not developed any minimum core obligations in relation to the right to clothing.

## **Right to housing (Article 11)**

Ensure that no significant number of individuals are deprived of basic shelter and housing.<sup>9</sup>

## **Right to water (Articles 11 and 12)**

1. To ensure access to the minimum essential amount of water, that is sufficient and safe for personal and domestic uses to prevent disease;
2. To ensure the right of access to water and water facilities and services on a non-discriminatory basis, especially for disadvantaged or marginalised groups;
3. To ensure physical access to water facilities or services that provide sufficient, safe and regular water; that have a sufficient number of water outlets to avoid prohibitive waiting times; and that are at a reasonable distance from the household;
4. To ensure personal security is not threatened when having to physically access to water;
5. To ensure equitable distribution of all available water facilities and services;
6. To adopt and implement a national water strategy and plan of action addressing the whole population; the strategy and plan of action should be devised, and periodically reviewed, on the basis of a participatory and transparent process; it should include methods, such as right to water indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of

action are devised, as well as their content, shall give particular attention to all disadvantaged or marginalised groups;

7. To monitor the extent of the realisation, or the non-realisation, of the right to water;
8. To adopt relatively low-cost targeted water programmes to protect vulnerable and marginalised groups;
9. To take measures to prevent, treat and control diseases linked to water, in particular ensuring access to adequate sanitation.<sup>10</sup>

## **Right to health (Article 12)**

1. Ensure that no significant number of individuals are deprived of essential primary health care;
2. To ensure the right of access to health facilities, goods and services on a non-discriminatory basis, especially for vulnerable or marginalised groups;
3. To ensure access to the minimum essential food which is nutritionally adequate and safe, to ensure freedom from hunger to everyone;
4. To ensure access to basic shelter, housing and sanitation, and an adequate supply of safe and potable water;
5. To provide essential drugs, as from time to time defined under the WHO Action Programme on Essential Drugs;
6. To ensure equitable distribution of all health facilities, goods and services;



7. 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 whole population; the strategy and plan of action shall be devised, and periodically reviewed, on the basis of a participatory and transparent process; they shall include methods, such as right to health indicators and benchmarks, by which progress can be closely monitored; the process by which the strategy and plan of action are devised, as well as their content, shall give particular attention to all vulnerable or marginalised groups.<sup>11</sup>

## **Right to sexual and reproductive health (Article 12)**

1. To repeal or eliminate laws, policies and practices that criminalise, obstruct or undermine access by individuals or a particular group to sexual and reproductive health facilities, services, goods and information;
2. To adopt and implement a national strategy and action plan, with adequate budget allocation, on sexual and reproductive health, which is devised, periodically reviewed and monitored through a participatory and transparent process, disaggregated by prohibited ground of discrimination;
3. To guarantee universal and equitable access to affordable, acceptable and quality sexual and reproductive health services, goods and facilities, in particular for women and disadvantaged and marginalised groups;
4. To enact and enforce the legal prohibition of harmful practices and gender-based violence, including female genital mutilation, child and forced marriage and domestic

and sexual violence, including marital rape, while ensuring privacy, confidentiality and free, informed and responsible decision-making, without coercion, discrimination or fear of violence, in relation to the sexual and reproductive needs and behaviours of individuals;

5. To take measures to prevent unsafe abortions and to provide post-abortion care and counselling for those in need;
6. To ensure all individuals and groups have access to comprehensive education and information on sexual and reproductive health that are non-discriminatory, non-biased, evidence-based, and that take into account the evolving capacities of children and adolescents;
7. To provide medicines, equipment and technologies essential to sexual and reproductive health, including based on the WHO Model List of Essential Medicines;
8. To ensure access to effective and transparent remedies and redress, including administrative and judicial ones, for violations of the right to sexual and reproductive health.<sup>12</sup>

## **Right to education (Articles 13 & 14)**

1. To ensure the right of access to public educational institutions and programmes on a non-discriminatory basis; to ensure that education conforms to the objectives set out in article 13(1);
2. To provide free primary education for all;
3. To adopt and implement a national educational strategy which includes provision for secondary, higher and fundamental education; and

4. To ensure free choice of education without interference from the State or third parties, subject to conformity with “minimum educational standards” (art. 13 (3) and (4)).<sup>13</sup>

## **Right of everyone to take part in cultural life (Article 15)**

1. To take legislative and any other necessary steps to guarantee non-discrimination and gender equality in the enjoyment of the right of everyone to take part in cultural life;
2. To respect the right of everyone to identify or not identify themselves with one or more communities, and the right to change their choice;
3. To respect and protect the right of everyone to engage in their own cultural practices, while respecting human rights which entails, in particular, respecting freedom of thought, belief and religion; freedom of opinion and expression; a person’s right to use the language of his or her choice; freedom of association and peaceful assembly; and freedom to choose and set up educational establishments;
4. To eliminate any barriers or obstacles that inhibit or restrict a person’s access to the person’s own culture or to other cultures, without discrimination and without consideration for frontiers of any kind;
5. To allow and encourage the participation of persons belonging to minority groups, indigenous peoples or to other communities in the design and implementation of laws and policies that affect them. In particular, States parties should obtain their free and informed prior consent when the preservation of their cultural resources, especially those associated with their way of life and cultural expression, are at risk.<sup>14</sup>

## **The right of everyone to benefit from the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he or she is the author (Article 15)**

1. To take legislative and other necessary steps to ensure the effective protection of the moral and material interests of authors;
2. To protect the rights of authors to be recognised as the creators of their scientific, literary and artistic productions and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, their productions that would be prejudicial to their honour or reputation;
3. To respect and protect the basic material interests of authors resulting from their scientific, literary or artistic productions, which are necessary to enable those authors to enjoy an adequate standard of living;
4. To ensure equal access, particularly for authors belonging to disadvantaged and marginalised groups, to administrative, judicial or other appropriate remedies enabling authors to seek and obtain redress in case their moral and material interests have been infringed;
5. To strike an adequate balance between the effective protection of the moral and material interests of authors and States parties' obligations in relation to the rights to food, health and education, as well as the rights to take part in cultural life and to enjoy the benefits of scientific progress and its applications, or any other right recognised in the Covenant.<sup>15</sup>

## **The right to participate in and to enjoy the benefits of scientific progress and its applications (Article 15)**

1. Eliminate laws, policies and practices that unjustifiably limit access by individuals or particular groups to facilities, services, goods and information related to science, scientific knowledge and its applications;
2. Identify and eliminate any law, policy, practice, prejudice or stereotype that undermines women's and girls' participation in scientific and technological areas;
3. Remove limitations to the freedom of scientific research that are incompatible with article 4 of the Covenant;
4. Develop a participatory national framework law on this right that includes legal remedies in case of violations, and adopt and implement a participatory national strategy or action plan for the realisation of this right that includes a strategy for the conservation, the development and the diffusion of science;
5. Ensure that people have access to the basic education and skills necessary for the comprehension and application of scientific knowledge and that scientific education in both public and private schools respects the best available scientific knowledge;
6. Ensure access to those applications of scientific progress that are critical to the enjoyment of the right to health and other economic, social and cultural rights;
7. Ensure that in the allocation of public resources, priority is given to research in areas where there is the greatest need for scientific progress in health, food and other basic needs related to economic, social and cultural rights and the well-being of the population, especially with regard to vulnerable and marginalised groups;
8. Adopt mechanisms aimed at aligning government policies and programmes with the best available, generally accepted scientific evidence;

9. Ensure that health professionals are properly trained in using and applying modern technologies and medicines resulting from scientific progress;
10. Promote accurate scientific information and refrain from disinformation, disparagement and deliberately misinforming the public in an effort to erode citizen understanding and respect for science and scientific research;
11. Adopt mechanisms to protect people from the harmful consequences of false, misleading and pseudoscience-based practices, especially when other economic, social and cultural rights are at risk;
12. Foster the development of international contacts and cooperation in the scientific field, without imposing restrictions on the movements of persons, goods and knowledge beyond those that are justifiable in accordance with article 4 of the Covenant.<sup>16</sup>

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<sup>1</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/23

<sup>2</sup> See Audrey R. Chapman, *The Status of Efforts to Monitor Economic, Social, and Cultural Rights in Economic Rights:*

*Conceptual, Measurement, and Policy Issues*, edited by Shareen Hertel and Lanse Minkler, Cambridge University Press (2009) at 154

<sup>3</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 18: The Right to Work (Art. 6 of the Covenant), 6 February 2006, E/C.12/GC/18

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<sup>4</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), 7 April 2016, E/C.12/GC/23

<sup>5</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 19: The right to social security (Art. 9 of the Covenant), 4 February 2008, E/C.12/GC/19

<sup>6</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999

<sup>7</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 12: The Right to Adequate Food (Art. 11 of the Covenant), 12 May 1999

<sup>8</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/23

<sup>9</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990, E/1991/23

<sup>10</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 15: The Right to Water (Arts. 11 and 12 of the Covenant), 20 January 2003, E/C.12/2002/11

<sup>11</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14: The Right to the Highest Attainable Standard of Health (Art. 12 of the Covenant), 11 August 2000, E/C.12/2000/4

<sup>12</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 22: On the Right to sexual and reproductive health (article 12 of the Covenant), 2 May 2016, E/C.12/GC/22

<sup>13</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 13: The Right to Education (Art. 13 of the Covenant), 8 December 1999

<sup>14</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General comment no. 21, Right of everyone to take part in cultural life (art. 15, para. 1a of the Covenant on Economic, Social and Cultural Rights), 21 December 2009, E/C.12/GC/21

<sup>15</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 17: The Right of Everyone to Benefit from the Protection of the Moral and Material Interests Resulting from any Scientific, Literary or Artistic Production of Which He or She is the Author (Art. 15, Para. 1 (c) of the Covenant), 12 January 2006, E/C.12/GC/17

<sup>16</sup> UN Committee on Economic, Social and Cultural Rights (CESCR), General Comment No 25: On science and economic, social and cultural rights (article 15 (1) (b), (2), (3) and (4) of the Covenant), 30 April 2020, E/C.12/GC/25