

This meant that she was unable to adequately defend her right to housing in the courts. The Committee also found that there were insufficient legislative safeguards in place to protect the housing rights of those facing loss of their homes in mortgage enforcement proceedings. It is gratifying to see the Committee referencing a number of important South African jurisprudence pertaining to mortgage bonds and housing rights.

The second merits decision was made in *Rodríguez v Spain* and concerned a complaint by a prisoner that his non-contributory disability benefit had been reduced by the cost of his upkeep in prison. He alleged a violation of the right to social security (article 9 of the Covenant) as well as the prohibition on discrimination in the enjoyment of this right (article 2). The Committee found no violation of the right to social security on the basis that the reduction was reasonable and proportionate and did not leave the complainant without minimum essential social security benefits. It also rejected the discrimination claim.

Both cases indicate that the Committee is drawing on the concepts it has developed in its general comments in “adjudicating” individual complaints regarding economic, social and cultural rights. One of the challenges that the Committee faces as an international body is to gain a sufficiently detailed understanding of the domestic facts and context of particular communications. This is important both for assessing the impact of the particular measures on the complaints as well as the credibility of the State Parties’ justifications for its position. In this regard, third party submissions (similar to *amici curiae* submissions) can play an important role in enriching the Committee’s deliberations under the Protocol. This point is well illustrated by the third-party submissions by ESCR-Net, an international network of NGOs and social movements focusing on economic, social and cultural rights, in the *I.D.G. v Spain* communication.

Socio-economic rights are now accorded more recognition worldwide, especially in national constitutions, but concerns remain. What would you consider to be the major challenges regarding the implementation of these rights?

The recognition of socio-economic rights as fundamental rights in a country’s highest law is important as it creates channels for legal and political accountability for the realisation of these rights. However, to be effectively implemented [it] means that these rights and their underlying values must be consciously integrated in all decision-making which affects people’s socio-economic well-being.

This includes budgetary processes, legislation and policy-making as well as decisions relating to trade, investment and the regulation of multinational corporations. In addition, without being claimed, rights mean very little on the ground. It is important that strong organisations are built and sustained which can support impoverished communities in their struggles to claim their socio-economic rights and demand accountability for their realisation.

Any suggestions for the way forward?

In South Africa black people still bear the burden of poverty and unequal access to socio-economic resources and services. In addition, poverty, inequality and environmental degradation are massive global challenges. We must use all the opportunities and channels which socio-economic rights create to redress these injustices and help build a more just and sustainable country and world.

UPDATES

General Comments by the United Nations Committee on Economic, Social and Cultural Rights

The United Nations Committee on Economic, Social and Cultural Rights (the Committee) has published two General Comments on its interpretation of the provisions of articles 12 and 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). The Comments codify the Committee’s views on these issues in order to give states which have ratified the Covenant a clear understanding of their obligations and to indicate to government officials, legal practitioners and civil society where policy, laws and programmes may be failing and how they can be improved. The two General Comments are as follows:

General Comment No. 22 (2016) on the right to sexual and reproductive health (article 12 of the ICESCR)

In its General Comment No. 14 (2000) on the right to the highest attainable standard of health (article 12 of the International Covenant on Economic, Social and Cultural Rights), the Committee addressed in part the issue of sexual and reproductive health. Considering the continuing grave violations of this right, however, the Committee is of the view that the issue deserves a separate General Comment. The present General Comment is aimed at assisting States Parties in their implementation of the Covenant and fulfilling their relevant reporting obligations. It primarily concerns the obligation of States Parties to ensure every individual’s enjoyment of the right to sexual and reproductive health, as required under article 12, but is also related to the various barriers that impede enjoyment of this right.

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=E%2fC.12%2fGC%2f22&Lang=en

General Comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the ICESCR)

The Committee acknowledges that the right to just and favourable conditions of work has yet to be fully realised. Almost 50 years after adoption of the International Covenant on Economic, Social and Cultural Rights, which recognises this right, the level of wages remains low in many parts of the world and the gender pay gap remains a global problem. Other international and regional human rights treaties and related international legal instruments, including ILO conventions and recommendations, also recognise the right of everyone to the enjoyment of just and favourable conditions of work.

For more information:

General Comments by the United Nations Committee on Economic, Social and Cultural Rights (CESCR). See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=11.

UN Human Rights Committee to review South Africa's record on civil and political rights

As the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR) are marking their 50th anniversary in 2016, South Africa's human rights record was reviewed for the first time by the UN Human Rights Committee on 7 and 8 March in Geneva. The Committee was established under the ICCPR to monitor the implementation of the Covenant by States Parties.

South Africa submitted a report to the Committee on the implementation of its human rights obligations. The following non-governmental organisations sent reports for the Committee's consideration: the African Policing Civilian Oversight Forum; Right2Know; the Legal Resources Centre; the African Gender Institute, the Health and Justice Research Unit, and the Women's Health Research Unit, all based at the University of Cape Town; the Centre for Constitutional Rights, based at the FW de Klerk Foundation; the Civil Society Prison Reform Initiative and the Women and Democracy Initiative, both based at the Dullah Omar Institute at the University of the Western Cape; Gay and Lesbian Memory in Action; Gender DynamiX; IRANTI; Just Detention International – South Africa; Lawyers for Human Rights; Lesbian, Gay, Bisexual Organisation (Northern Cape); Limpopo LGBTI Proudly Out; NICRO; Scalabrini Centre of Cape Town; Sex Worker Education and Advocacy Task Force; Sonke Gender Justice; Triangle Project; and the Wits City Institute at the University of the Witwatersrand.

Issues raised by these NGOs include the struggle for protection of the rights of transgender and intersex persons, participatory democracy, criminal justice and human rights, the rights of migrants and asylum seekers, and violence against women and LGBTI people in South Africa. Obligated to submit a report every four years, South Africa has not submitted a single report since ratifying the ICCPR in 1998. In terms of the obligations under article 40 of the Covenant, South Africa's initial report was due for submission to the Committee on 9 March 2000. South Africa submitted its report only in late 2014.

South Africa's poor track record in reporting to UN treaty-monitoring bodies prompted the UN Human Rights Committee to take the exceptional measure of reviewing South Africa without having received an input from the government. This measure is usually reserved for states that have shown a general and systematic disregard for the international human rights system. According to Lukas Muntingh of the Dullah Omar Institute, the fact that South Africa is late on reporting on all but one of the major human rights treaties gives the impression that the government is either unwilling or incapable, or both, of producing the required reports.

For more information:

International Covenant on Civil and Political Rights (ICCPR) 116 Session (7 Mar 2016 - 31 Mar 2016). See http://tbinternet.ohchr.org/_layouts/treatybodyexternal/SessionDetails1.aspx?SessionID=1016&Lang=en.

Cross cutting issues raised in five Alternate Reports to the Initial Report by South Africa under the International Covenant on Civil and Political Rights. See http://tbinternet.ohchr.org/Treaties/CCPR/Shared%20Documents/ZAF/INT_CCPR_CSS_ZAF_23068_E.pdf.