

Women's ESCR: A Vital Framework for Fulfilling and Strengthening the Millennium Development Goals

Human rights obligations transcend goals and indicators. Although it is important to have measurable goals in the short term, they should reflect *existing international obligations to respect, protect and fulfill* human rights.

The full spectrum of obligations related to women's economic, social and cultural (ESC) rights are drawn from many sources. At the international level, the two most relevant are the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which the vast majority of countries have ratified. These standards suggest that the post-2015 framework must incorporate a gender perspective to ensure that human rights obligations are met. The ESCR-Net Women and ESCR Working Group calls for attention to both *formal and substantive equality*, addressing the disproportionate impacts of laws, policies and practices experienced by women in different contexts due to various forms of discrimination and structural disadvantage.

billion people living in poverty. Women are affected disproportionately by social programs and policies aimed at ensuring health care, education, child care, housing, food and water. A vast majority of these programs do not take into account the specific needs and interests of women, particularly given their care-giving roles, or are otherwise inadequate to meet the needs of women. Particular attention must be paid to the enabling macroeconomic environment required to realize women's ESC rights and advancements towards achieving substantive development outcomes. *These rights are enshrined in International Covenant on Economic Social and Cultural Rights (ICESCR) Article 11 and Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) Article 3, Article 10, Article 14 (2).*

Women's Right to Decent Work

According to UN Women, women are more likely than men to have low-paid, low-status and vulnerable jobs, with limited or no social protection or basic rights.¹ Globally, women's wages are 17% lower than those of men.² The right to work entitles women workers to have the opportunity to earn their living by the work of their choice, equal employment opportunities and working conditions that are safe, dignified and healthy. Workers must be guaranteed a fair and equal wage with no discrimination. Women should not be discriminated against in terms of employment opportunities due to pregnancy or motherhood. *ICESCR Article 6, 7, 8, 10(3); CEDAW Article 5(a), 6, 11, 14(1).*

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GOAL 1: ERADICATE EXTREME POVERTY AND HUNGER

Women's Right to an Adequate Standard of Living

Worldwide, women make up an estimated 70% of the 1.2

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➤ Women's Right to Social Security

Women should be provided with adequate goods and services, as is required for a dignified life without discrimination. Workers should be protected from "(a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member; (b) unaffordable access to health care; (c) insufficient family support, particularly for children and adult dependents."³ Special attention should be given to disadvantaged and marginalized groups, such as older women and women who work in the informal sector, ensuring that women receive equal benefits, including adequate parental leave for both men and women. Social services should be provided to enable parents to combine family obligations with work responsibilities.⁴ *ICESCR Article 9, 10(2), 11(1); CEDAW Article 11(1)e, 11(2), 14(2)c*

Respect, Protect and Fulfill

The obligation to **respect** requires States to refrain from actions that directly or indirectly discriminate against women and infringe on their enjoyment of economic, social and cultural (ESC) rights. States Parties must not adopt or must repeal laws, policies, or programs (including those which appear neutral on their face) which adversely impact women's equal enjoyment of ESC rights.

The obligation to **protect** requires States to take steps directed at eliminating of prejudices and gender-based stereotypes; to adopt constitutional and legislative provisions on equality and non-discrimination between men and women; to ensure administrative measures against discrimination against women; and ensure effective remedies and redress. Importantly, States must monitor and regulate the conduct of non-State actors, including corporate actors, to ensure equal rights of women to ESC rights.

The obligation to **fulfill** entails: (1) "to take steps" via a clear national plan to ensure continuous progress in the realization of ESC rights, based on "the maximum of its available resources," with "international assistance and cooperation" (2) on a basis of non-discrimination. (See ICESCR Article 2.1 and 3.)



➤ Women's Right to Food

The World Food Programme has noted that gender inequality is a major cause and effect of hunger and poverty. It is estimated that 60% of chronically hungry people are women and girls.⁵ Women should have physical and economic access to food or the means of producing it at all times without discrimination, which means that women

must have secure rights to land and productive resources. The State must actively address customary practices under which women are not allowed to eat until the men are fully fed, or are only allowed less nutritious food. *ICESCR Article 11; CEDAW Article 14(g)(h), 16(h)*.

GOAL 2: ACHIEVE UNIVERSAL PRIMARY EDUCATION

➤ Women's Right to Education

According to UNICEF, 53% of all children out of school are girls denied of the right to education. Furthermore, poverty, exploitation and armed conflict exacerbate the risk girls face even if they go to school, forcing many to stay home or drop out in fear for their safety.⁶ Worldwide, women account for nearly two-thirds of the 776 million illiterate adults.⁷ Women and girls must access all educational opportunities on the basis of equality and non-discrimination and freedom to choose the kind and content of education, which is available, accessible, acceptable and of good quality. As a minimum core obligation, universal primary education must be compulsory and free of charge for girls and boys. States should implement temporary special measures to close the gap in girls' access to school, including by establishing quotas and incentives for girls' enrolment in schools. Non-discriminatory measures should include establishing the same admission criteria for boys and girls at all levels of education, adopting a curriculum which promotes equality and non-discrimination and creating favorable conditions to ensure the safety of children on their way to and from school. Even these temporary special measures may not be sufficient, as girls' may not be able to enroll and complete cycles of secondary and tertiary education, and education may not translate into employment opportunities due to other forms of discrimination or gender stereotypes, which may discourage families from sending girls to school, particularly very poor families in the context of economic crisis. *ICESCR Article 13, 14; CEDAW Article 5, 10, 11(c), 14(2)d*.

In Burundi, school fees were ended in 2005, to encourage all parents to send their children to school. Due to poverty, many parents had been forced to enroll only some of their

children, often favoring boys over girls. However, especially in the rural areas, some parents continue to think that a “good girl” stays at home to help her mother with household tasks.

GOAL 3: PROMOTE GENDER EQUALITY AND EMPOWER WOMEN

Substantive or de facto equality entails interpreting and implementing rights in a manner that ensures women’s equal exercise and enjoyment of their rights. For this, States must prevent discrimination and take positive steps to remedy structural and historic discrimination, going beyond the enactment of laws and formal or legal equality. States must play an active role in providing and facilitating the development of comprehensive economic and social policies and programs which account for the differing needs and circumstances of women, including those that experience intersectional discrimination, for instance due to citizenship status, racial or sexual identity, or disability.

➤ Women’s Right to Equality

Developing and analyzing laws and policies in the area of women’s ESC rights requires a deep understanding of the context of systemic discrimination, gender roles and stereotypes and the structural obstacles which place women in disadvantaged social and economic positions. It also entails focusing on women’s experiences and needs and understanding that in addition to their gender, women are also affected by other characteristics which often condition the enjoyment of their rights. The context and the specific circumstances in which women live will mark the impact of human rights violations and, accordingly, appropriate remedies and reparations are required. Equality in the enjoyment of ESC right requires not only guaranteeing that women are not discriminated against in the law, but also ensuring that women have the opportunities and conditions to exercise their rights in conditions of equality.⁸ Furthermore, any efforts to address the development agenda must include attention to violence against women and girls, as well as against women’s human rights defenders, which is a concern in its own right, but is also relevant for its impact on other aspects of women’s equality, including education, health and work. *ICESCR, art 2(2), 3; 6, 7, 8, 10(3); CEDAW Article 2, 3, 4, 5(a), 6, 11, 14(1).*

In Zambia, the economic crisis has deepened the impoverishment of women more than men. Women have no access to major resources and are not in decision-making positions to influence economic policies and decisions.

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GOAL 4: REDUCE CHILD MORTALITY

GOAL 5: IMPROVE MATERNAL HEALTH

GOAL 6: COMBAT HIV/AIDS, MALARIA AND OTHER DISEASES

➤ Women’s Right to Life and Right to Health

Gender gaps in health outcomes are prevalent worldwide. Gender discrimination means that women’s health care needs are de-prioritized, making women more vulnerable to morbidity and preventable death. For example, for women in their reproductive years (15–44), HIV/AIDS is the leading cause of death and disease worldwide, in part because HIV/AIDS pandemic is fueled by gender inequality.⁹ Violence against women and girls increases their vulnerability to HIV/AIDS, including in conflict settings. In addition, every day approximately 800 women die from preventable causes related to pregnancy and childbirth.¹⁰ The right to the highest attainable standard of health, including sexual and reproductive health, entitles women to have control over their bodies and make informed and autonomous decisions regarding their health. States must “eliminate discrimination against women in their access to health care services, throughout the life cycle, particularly in the areas of family planning, pregnancy, confinement and during the post-natal period.”¹¹ “Societal factors are determinative of the health status of

women... for that reason, special attention should be given to the health needs and rights of women belonging to vulnerable and disadvantaged groups.”¹² *ICESCR Article 11, 12; CEDAW Article 12, 14(b).* Some States have advanced women’s ESC rights; however, litigation at





different levels has demonstrated that systemic failures by States to reduce maternal mortality and provide access to quality maternal healthcare breach international obligations.¹³

GOAL 7: ENSURE ENVIRONMENTAL SUSTAINABILITY

Women's Rights to Water and Sanitation

Every day, more than 152 million hours of women and girls' time is spent ensuring basic needs, including collecting water for domestic use.¹⁴ Women have the right to adequate water and sanitation, and their security should not be threatened when accessing these resources, particularly in humanitarian conflict areas. The full enjoyment of these rights requires that the following criteria be met: availability; quality; acceptability; accessibility; and affordability. State should ensure that policies and entitlements related to access to water should account for the disproportionate burden women bear in the collection of water and its use within the household. *ICESCR Article 11, 12; CEDAW Article 14(h)*.

Women's Right to Adequate Housing

The right to housing includes security from external or domestic threats, a healthy living environment, security of tenure, affordability, habitability, accessibility, cultural adequacy, proximity to necessary services, and freedom to choose one's place of residence. States must develop national policies to progressively fulfill the right to housing based on their maximum available resources and international assistance and cooperation, while refraining from forced evictions. States must also ensure there that are no statutory and other forms of discrimination in relation to property rights (including home ownership). States must also ensure alternative, safe housing for women victims of violence and sexual abuse. *ICESCR Article 11(1); CEDAW 14(h), 16(h)*.

In the USA, there is evidence of failure to protect the rights of women, the poor and minorities, who were disproportionately affected by predatory lending practices. According to the Consumer Federation of America, in 2006, women were 32% more likely to receive subprime loans than men.

GOAL 8: DEVELOP A GLOBAL PARTNERSHIP FOR DEVELOPMENT

In calling on countries to fulfill the above goals through partnership and attention to trade, finance, debt and aid policies, Goal 8 should again be interpreted via the human rights obligations. Particularly over the past decade, multiple UN treaty bodies have articulated the extraterritorial obligations of States to respect the human rights of people beyond their borders via trade agreements and international financial institutions, as well as to protect the human rights of people in other countries from violations by transnational corporations and private investors based in their country.¹⁵ Finally, CEDAW refers to appropriate measures that States must take to ensure the full development and advancement of women. *UN Charter Art. 55 & 56; ICESCR Art. 2, 22, 23; CEDAW Introduction, Article 3*.

NOTES

1. UN-Women, Facts & Figures on Women Worldwide, 2010. 2 Ibid. 3 Committee on Economic, Social and Cultural Rights, General Comment 19: The Right to Social Security, E/C.12/GC/19 (4 February 2008), para 2. 4
4. Article 11, 2(C), Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations General Assembly in 1979, Res. 34/180. 5. World Food Program, Gender Policy and Strategy.
6. UNICEF, 'UNICEF says education for women and girls a lifeline to development,' 4 May 2011. 7 UN-Women, Facts & Figures on Women Worldwide, 2010. 8. Facio Alda, Engendrando nuestras perspectivas, Revista Otras Miradas, Volumen 2, Número 2, Diciembre 2002, Universidad de Los Andes, Mérida-Venezuela. 9. World Health Organization, Women's Health, Fact Sheet No. 334, November 2009. 10. World Health Organization, Maternal Mortality, Fact Sheet No. 348, May 2012. 11. Committee on the Elimination of all forms of Discrimination Against Women (CEDAW), General Recommendation 24, Women and Health, (20th session, 1999) para 2. 12 Ibid. para 6. 13. See 2011-08-06, Alyne da Silva Pimentel v. Brazil, UN CEDAW.
14. Estimated with data via Water.org, from: WHO/UNICEF Joint Monitoring Programme (JMP) for Water Supply and Sanitation. (2010). Progress on Sanitation and Drinking-Water, 2010 Update; World Health Organization (WHO). (2004). Evaluation of the Costs and Benefits of Water and Sanitation Improvements at the Global Level. 15. See CESCR General Comment 15 (2003) Right to Water; CRC General Comment 16 (2013) on State obligations regarding the impact of the business sector on children's rights; CEDAW General Recommendation 30 (2013) on women in conflict prevention, conflict and post-conflict situations; Human Rights Committee's Concluding Observations on Germany (2012); CESCR Concluding Observations on Austria (2013).