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### Annual report of the United Nations High Commissioner for Human Rights and reports of the Office of the High Commissioner and the Secretary-General

Promotion and protection of all human rights, civil,  
political, economic, social and cultural rights,  
including the right to development

## Report of the United Nations High Commissioner for Human Rights on the question of the realization in all countries of economic, social and cultural rights

### *Summary*

The present report is submitted in accordance with resolution 14/13 of the Human Rights Council. It outlines the activities of the Office of the United Nations High Commissioner for Human Rights (OHCHR), treaty bodies and special procedures in relation to economic, social and cultural rights. The report also covers OHCHR activities on assistance and technical cooperation to States, United Nations agencies and entities, civil society organizations and other relevant stakeholders.

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## **I. Introduction**

1. In its resolution 14/13, the Human Rights Council requested the High Commissioner for Human Rights to submit to the Council an annual report on the question of the realization in all countries of economic, social and cultural rights. The present report refers to activities relevant to the promotion and protection of these rights, with a particular focus on the activities of United Nations treaty bodies, special-procedures mandates holders, and the Office of the United Nations High Commissioner for Human Rights (OHCHR). The present report includes a number of illustrative examples of the activities undertaken by OHCHR headquarters and field presences in the area of economic, social and cultural rights.

### **New international protection instruments**

2. The General Assembly adopted, on 19 December 2011, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure. Upon its entry into force, the Committee on the Rights of the Child will have the competence to receive complaints from or on behalf of children alleging the violation of any rights under the Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, respectively. By providing an additional avenue for the resolution of complaints relating to human rights violations, the adoption of the Optional Protocol is an important step in buttressing the protection of the full range of children's rights. The adoption of the Optional Protocol will strengthen the international legal protection of children's economic, social and cultural rights, and help to consolidate the firm recognition of the justiciability of economic, social and cultural rights in international human rights law.<sup>1</sup>

## **II. Activities of the Office of the High Commissioner for Human Rights**

### **A. Leadership in human rights**

3. The fourth session of the Forum on Minority Issues, in preparation for which OHCHR organized a briefing for minority representatives, was held on 29 and 30 November 2011. The Forum examined concrete measures and recommendations aimed at guaranteeing the rights of minority women. Building on the work carried out during the first three sessions of the Forum and the recommendations emanating from that work, the fourth session focused on the rights of and opportunities for minority women to have access to education, to take part effectively in economic life, to have access to labour markets and to participate fully in social, cultural and political life.

4. Land issues continue to play a central role in many social, developmental and humanitarian questions, and disputes over land are often the cause of conflicts and impede the restoration of sustainable peace. Recently, emerging global issues, such as global food security, climate change, energy scarcity and rapid urbanization have triggered intensified competition over land. Careful elaboration and implementation of laws, policies and

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<sup>1</sup> General comment No. 13 (2011), para. 11 (d).

programmes are required to prevent land management which results in human rights violations. Subsequent to a consultation convened in 2010 between OHCHR and experts in the field, the Office is working to analyse the existing international normative framework applicable to land and human rights issues and to identify gaps in policies, guidance and analysis in order to assist interested stakeholders in addressing land issues from a human rights perspective. In this context, OHCHR is in the process of developing a number of documents and tools. The Office has also been providing technical advice to the development of the Voluntary Guidelines on the Responsible Governance of Tenure of Lands, Forests and Fisheries, currently being negotiated under the auspices of the Committee on World Food Security of the Food and Agriculture Organization of the United Nations, to ensure that the Guidelines are consistent with international human rights standards.

5. OHCHR has continued to advocate for the land rights of indigenous peoples in various forums. In particular, the issue of consultation and free, prior and informed consent with regards to extractive industries and development projects was specifically addressed in the High Commissioner's media statement of 9 August 2011 on the Day of the World's Indigenous People. OHCHR also provided support to the Expert Mechanism on the Rights of Indigenous Peoples as it continues to build upon its 2011 study on indigenous peoples and the right to participate in decision making in 2012, with a focus on extractive industries. The Expert Mechanism will further address its work in this area at its 2012 session.

6. The Vienna Declaration and Programme of Action notes that in order to "strengthen the enjoyment of economic, social and cultural rights, additional approaches should be examined, such as a system of indicators to measure progress in the realization of the rights set forth in the International Covenant on Economic, Social and Cultural Rights".<sup>2</sup> In this respect, OHCHR continues to provide support and methodology at the request of a growing number of government actors, national human rights institutions as well as civil society organisations engaged in strengthening the development and use of indicators to enhance the implementation and measurement of economic, social and cultural rights. Technical assistance was provided to countries and stakeholders, including in Bolivia, Ecuador, Kenya, Kosovo, Mexico, Nepal, Serbia and the United Kingdom of Great Britain and Northern Ireland. In 2012, OHCHR will release a practical guide that will help disseminate and operationalize the methodology on indicators, particularly economic, social and cultural rights. Drawing on the methodology outlined in this guide, new publications on country-level initiatives on indicators relevant to economic, social and cultural rights were released in Mexico, Nepal and the United Kingdom.

7. Since 2005, OHCHR has coordinated the World Programme for Human Rights Education which aims to advance human rights education in all sectors. The World Programme promotes, inter alia, "the interdependence, interrelatedness, indivisibility and universality of human rights, including civil, political, economic, social and cultural rights and the right to development".<sup>3</sup> The current phase (2010-2014) focuses on human rights education for higher education and on human rights training for teachers and educators, civil servants, law enforcement officials and military personnel.

8. In the area of humanitarian action, OHCHR supported the development of checklists to integrate human rights in other sectors of humanitarian programming, including in health, water and sanitation programmes, in a number of field presences, including Fiji,

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<sup>2</sup> Para. 98.

<sup>3</sup> Plan of action for the second phase of the World Programme for Human Rights Education (A/HRC/15/28), para. 9 (a).

Haiti, Nepal and the Occupied Palestinian Territory. In the framework of the Global Protection Cluster, OHCHR contributed to the development of training materials on housing, land and property and protection in natural disasters.

9. Age-related discrimination is a growing concern in many societies around the world. Trends indicate it will become increasingly prevalent as communities age more rapidly than at any other time in history. In December 2010, the General Assembly adopted resolution 65/182, in which it established an open-ended working group on ageing with the purpose of strengthening the protection of the human rights of older persons. The working group is mandated to consider the existing human rights framework, particularly any gaps and how to best address them, including by considering the feasibility of further instruments and measures. Deliberations at the first and second working sessions in 2011 highlighted several obstacles to the enjoyment of economic, social and cultural rights, notably in relation to the rights to social security, the right to an adequate standard of living, including housing and food, and the right to the enjoyment of the highest attainable standard of physical and mental health.

10. During 2011, OHCHR dedicated attention to supporting the Open-Ended Working Group, as part of its Secretariat. OHCHR also contributed to the preparation of the report of the Secretary-General to the General Assembly addressing the human rights of older persons.<sup>4</sup> As the report points out, the most critical challenges facing older persons are closely linked to the protection and effective enjoyment of the economic, social and cultural rights. OHCHR will, during the second quarter of 2012, report to the Economic and Social Council on the human rights situation of older persons.

11. In 2012, OHCHR will publish “The Corporate Responsibility to Respect Human Rights: An Interpretive Guide” to assist in the interpretation of the United Nations Guiding Principles on Business and Human Rights.<sup>5</sup> The Guide is not intended to alter the provisions of the Guiding Principles or the expectations that they set for businesses. Its purpose is, rather, to provide additional background information with a view to promoting a more comprehensive understanding of the Guiding Principles.

12. OHCHR released a study entitled “international legal protection of human rights in armed conflict” in 2011 which explains the complementarity between human rights law and international humanitarian law, as well as the respective human rights obligations of national authorities, humanitarian actors and others in times of armed conflict. Most notably, the study focuses considerable attention on economic, social and cultural rights, their application and the limited circumstances under which derogations are permissible.

13. Finally, OHCHR continued its efforts to integrate economic, social and cultural rights into its human rights monitoring, the documentation of violations and into its reporting functions. This includes the production of a new chapter of the OHCHR Manual on Human Rights Monitoring (“Monitoring economic, social and cultural rights”), the development of a comprehensive glossary of human rights and international humanitarian law violations, and the organization of a specialized course and/or specific sessions on monitoring economic, social and cultural rights.

## **B. Country engagement and field presence**

14. During the reporting period, OHCHR continued to make concerted efforts to promote the realization of economic, social and cultural rights through its field presences

<sup>4</sup> A/66/173.

<sup>5</sup> Forthcoming.

and its engagement with authorities and other stakeholders at country level. To this end, and as more fully set out in this section, OHCHR worked on a broad range of issues including advocacy for the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the monitoring of economic, social and cultural rights and the integration of a human rights-based approach to policy development. OHCHR concentrated its focus, in particular, on the provision of technical support, capacity-building and training. Through the provision of support to field presences, the Office has strengthened the incorporation of economic, social and cultural rights into their work plans and the rolling out of related activities, including in Central Asia, Southern Africa, West Africa and South America.

15. In 2011, OHCHR provided technical assistance to governments, civil society and other national stakeholders, at their request, to integrate human rights standards and principles in the assessment, formulation and monitoring of national development plans, poverty reduction strategies and public budgets. In particular, support was given to the Czech Republic, Ecuador, Kenya, Liberia, Mexico, Nepal and seven French-speaking countries in the Central Africa region through technical missions, training workshops and regional events. As result of these efforts, a total of 107 representatives from governments, civil society and the United Nations were sensitized and trained on a human rights-based approach to policy and budget monitoring, analysis and advocacy.

16. With the technical assistance of OHCHR, the National Secretariat of Planning and Development of Ecuador developed a national guide on the formulation of public sector policies. The guide was adopted at the level of the Council of Ministers, establishing a human rights-based approach as a mandatory requirement for all sectors and executive departments. By way of follow-up, OHCHR is supporting the Government to pilot this guide in the water and sanitation sector, with promising results.

17. The Office also continued to support United Nations country teams on a human rights-based approach to the formulation of United Nations Development Assistance Framework (UNDAF) and common country programming processes, including by delivering training workshops to UNDAF roll-out countries in partnership with the United Nations System Staff College (UNSSC). Furthermore, OHCHR contributed to several trainings and induction programmes targeted at Resident Coordinators and the United Nations country team leadership, organized by the United Nations Development Operations Coordination Office and UNSSC. As a result, 170 Resident Coordinators and Heads of United Nations agencies were trained in 2011 on human rights leadership and coordination.

18. OHCHR organized a regional workshop on a human rights approach to the budget process in Cameroon in December 2011. Delegations from seven countries, comprising officials from finance and planning ministries, national human rights institutions and civil society, participated in this event and identified concrete entry points and follow up actions to further advance human rights in their respective national development agendas, public policy and financial frameworks.

19. OHCHR co-sponsored the Regional Meeting on HIV and the Law, held 6 to 8 February 2011 in Dakar for ministers of justice and judges in West and Central Africa in collaboration with the Joint United Nations Programme on HIV/AIDS (UNAIDS), the United Nations Development Programme (UNDP) and the African Association of Highest Francophone Jurisdictions. Meeting participants adopted a declaration of commitment which includes a number of recommendations such as strengthening ministries of justice by establishing clear targets in areas of HIV-related law and human rights.

20. In relation to its work on indicators for economic, social and cultural rights, OHCHR organized a first subregional workshop in Belgrade in November 2011 on the follow-up on recommendations adopted by human rights mechanisms, namely the treaty

bodies, special procedures and universal periodic review of the human rights council. The workshop, which brought together Government, national human rights institutions, civil society organizations, United Nations and other international organisations, highlighted the relevance of OHCHR's methodology on indicators to enhance implementation and follow-up on recommendations of human rights mechanisms. In partnership with the Ombudsperson of Serbia, OHCHR initiated work on the development of indicators to help in the reporting on the realization of economic, social and cultural rights of local Roma communities. The initial focus has been on indicators on the right to adequate housing; the monitoring process was also to cover a review of law and policy, with OHCHR providing guidance, among other things, on applicable international standards.

21. On 14 December 2011, OHCHR launched a report in Nepal entitled "Opening the door to equality: access to justice for Dalits in Nepal". The report is the result of over five years of work and draws from cases investigated and tracked by OHCHR, primarily in the impoverished far-western region. It identifies and analyses the challenges faced by Dalits in obtaining justice for caste-based discrimination and untouchability practices. It also examines in detail the human rights framework for the protection, particularly, of Dalit women and children, who are typically the most vulnerable members of that community, and discusses the recommendations and observations of the treaty bodies in relation to the denial of economic, social and cultural rights. The report offers concrete recommendations to the Government of Nepal, the judiciary, national human rights institutions and other stakeholders on equal access to justice for Dalits, which can aid poverty-reduction strategies by, for example, providing redress to poverty caused by crime and an inability to assert land rights.

22. With OHCHR's support, Colombia's Ministry of Education made substantial progress in implementing the "EduRights" programme, which makes human rights education mandatory in elementary and secondary educational institutions. With the aim of reaching at least 35 education secretariats at department and municipal level, the Ministry of Education and OHCHR are collaborating for the training of 150 teachers from three provinces. The Departments of Meta, Chocó and Santander are currently benefitting from the programme; its implementation will continue throughout 2012 and be expanded to other regions of Colombia.

23. As part of its work to promote the justiciability of economic, social and cultural rights, OHCHR organized a seminar in April 2011 for judges and magistrates on this issue in Bolivia. The seminar offered an overview of the legal nature and content of economic, social and cultural rights, of the situation of economic, social and cultural rights in Bolivia, and of the avenues for the justiciability of economic, social and cultural rights on both the national and international levels. Representatives of the Office also had the opportunity to engage the National Human Rights Institute on the integration of economic, social and cultural rights into its work, stressing different avenues through which the array of functions accorded to the National Human Rights Institute by the constitution could be used to strengthen the protection and realization of economic, social and cultural rights. A second, two-day workshop was held, this time for civil society and grassroots organizations on the justiciability of economic, social and cultural rights and the promotion of the ratification of the Optional Protocol to the International Covenant. Participants included organizations working on a variety of economic, social and cultural rights and related issues, such as the right to housing, the right to health, the right to education, the right to food, indigenous peoples' rights, land and human rights and violence against women. Bolivia has since ratified the OP-ICESCR.

24. Jointly with the Chilean National Human Rights Institute, OHCHR held a workshop in Chile from 11 to 12 April 2011 on the integration of economic, social and cultural rights into the work of the National Human Rights Institute, which formally began functioning in

2010. Specifically, the workshop discussed the various roles played by national human rights institutes in the protection and promotion of economic, social and cultural rights from a comparative perspective and the use of indicators as a means for monitoring economic, social and cultural rights, with a particular focus on the framework on human rights indicators developed by the Office. It also examined the specific international norms applicable to the right to health and to labour rights.

25. OHCHR has been active in advocacy for the legal protection of economic, social and cultural rights and the ratification of the Optional Protocol to the International Covenant through capacity-building, awareness-raising events and support to national organizations. Thus, in 2011, workshops were held, for instance, in Burkina Faso, Cape Verde and in Mali for a variety of participants, including judges, high-ranking Government officials, legislators, civil society organisations and lawyers. Cape Verde signed the Optional Protocol on 26 September 2011.

26. In July 2011, OHCHR organized several events in Costa Rica and Panama to promote the ratification of Optional Protocol and to raise awareness of the justiciability of economic, social and cultural rights. The activities included representations before the International Relations Committee of the National Assembly and the Ombudsman's Office in Costa Rica to discuss the content of the Optional Protocol and the opportunity for ratification, and two events in Panama on the justiciability of economic, social and cultural rights and on the Optional Protocol with the Ministry of Foreign Affairs and the Ombudsman's Office.

27. The Office has been supporting the revision of the Kyrgyz housing code and has substantively contributed to the integration of human rights elements in the draft code, in particular those relevant to the right to adequate housing. On 6 June 2011, OHCHR organized a meeting in Kyrgyzstan for parliamentarians and international experts to discuss the draft code; OHCHR contributed to the first hearing of the code in the Kyrgyz Parliament.

28. An expert seminar on economic, social and cultural rights was organized by OHCHR in Maputo, Mozambique from 5 to 7 December 2011. Twenty-two participants from Governments, national human rights institutions, non-governmental organizations and academia attended the seminar, which discussed the main challenges to the implementation of economic, social and cultural rights in the sub-region. The seminar concluded with the formulation of recommendations addressed to relevant stakeholders on how to enhance the protection and promotion of economic, social and cultural rights in the sub-region.

### **C. Partnerships with civil society and United Nations agencies**

29. The United Nations Indigenous Peoples' Partnership (UNIPP), a collaboration to promote the rights of indigenous peoples, was launched on 20 May 2011 by OHCHR, UNDP the International Labour Organization (ILO), the United Nations Children's Fund (UNICEF) and the United Nations Population Fund (UNFPA). Within the scope of its objective of facilitating the implementation of the United Nations Declaration on the Rights of Indigenous Peoples and the International Labour Organization (ILO) Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries (1989), the partnership envisages joint country-level programmes around common country objectives. Thematic areas of intervention include, inter alia, access to land and ancestral territories, natural resources and extractive industries, and access to education and health. Since the launch, OHCHR and United Nations partners have constituted a policy board of senior United Nations representatives and indigenous experts, sent out a call for proposals, and reviewed and approved six joint United Nations country proposals and one South-East Asia regional proposal designed in partnership with indigenous peoples. A number of these

approved proposals deal with consultation processes and laws, including provisions related to a range of economic, social and cultural rights within the purview of the United Nations Declaration and ILO Convention 169.

30. Between 2011 and 2012, OHCHR has been supporting and will continue to support 28 civil society organizations in 13 countries through the “Assisting Communities Together” project, implemented in partnership with UNDP. The small grants provided to these organizations support human rights education and promotional activities in local communities addressing a variety of human rights concerns, including the right to health, the rights of older persons, the human rights of women, the human rights of persons with disabilities, land rights, domestic violence and anti-discrimination.<sup>6</sup>

31. Building on Member States’ human rights commitments in the 2010 Millennium Development Goals Review Summit outcome document, OHCHR continued to promote strong partnerships with human rights and development actors, including States, United Nations special procedures, academia and international civil society advocacy organizations. The Office also began the process of developing a flagship publication on the Millennium Development Goals with a focus on human rights accountability and equality and non-discrimination, a joint endeavour with the Centre on Economic and Social Rights. This advocacy tool seeks to clarify essential elements of human rights accountability and how they can contribute to the realization of the Millennium Development Goals. Furthermore, the publication will offer key human rights parameters and criteria to inform discussions in the post-2015 development framework. In the lead-up to 2015, OHCHR will be working to ensure that a human rights perspective is reflected in the work of United Nations interagency mechanisms dealing with the Millennium Development Goals and will actively participate in the Secretary-General’s recently established United Nations System Task Team on the Post-2015 Development Agenda.

32. OHCHR continues to work with United Nations partners to promote a rights-based response to HIV/AIDS at national, regional and global level. The Office was involved in the 2011 High Level Meeting on AIDS in accordance with Human Rights Council resolution 16/28 and advocated for the centrality of human rights in the HIV/AIDS response to ensure a true downward transformation of the epidemic. OHCHR also provided substantive support to the Global Commission on HIV and the Law, established to assess the relationship between legal responses and human rights issues arising within the context of HIV/AIDS. The Commission’s report and recommendations are expected in early 2012. Furthermore, the capacity of seven civil society organisations was strengthened to support their engagement in the work of the African Commission on Human and People’s Rights’ Committee on the Protection of the Rights of People Living with HIV and those at Risk, Vulnerable to and Affected by HIV.

33. Through its collaboration with the Food and Agriculture Organization of the United Nations (FAO), OHCHR supported and contributed to the first meeting of the Observatorio del Derecho a la Alimentación, a network of academic institutions working on the realisation of the right to food. The meeting, held in Bogotá on 17 and 18 February 2011, was attended by representatives from approximately 20 Latin American universities and elected its technical secretariat. The work of the Observatorio will include the regular publication of documents, financial support to research on the realisation of the right to food and the creation of a virtual library. The Observatorio also requested OHCHR’s technical support in its institution-building activities.

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<sup>6</sup> See [www2.ohchr.org/english/issues/education/training/act.htm](http://www2.ohchr.org/english/issues/education/training/act.htm).

## D. Work with United Nations human rights bodies

34. OHCHR continued its support to the Human Rights Council to advance its normative work on economic, social and cultural rights, including through the Council's initiative to develop a United Nations declaration on human rights education and training.<sup>7</sup> Pursuant to Human Rights Council resolution 13/15, OHCHR provided secretariat services to the Council's open-ended working group which met in Geneva from 10 to 14 January 2011 in order to finalize the draft declaration. The United Nations Declaration on Human Rights Education and Training was subsequently adopted by the Council<sup>8</sup> and by the General Assembly.<sup>9</sup> It is the first United Nations instrument exclusively devoted to human rights education and training.

35. The High Commissioner's annual report to the Economic and Social Council, submitted pursuant to General Assembly resolution 48/141, focused last year on the use of indicators and benchmarks in the implementation of economic, social and cultural rights and highlighted recent practices and methods developed at national and international levels.<sup>10</sup> Building on the conceptual and methodological framework for human rights indicators developed by OHCHR and the United Nations treaty bodies, the report addressed the rationale for their use in monitoring economic, social and cultural rights and proposed ways in which to advance the ongoing work in this area. The report recommends, among other things, that initiatives taken to integrate human rights indicators into national development or human rights plans and policies be supported and followed through, so that selected indicators are actually used in monitoring the implementation of plans and policies. It notes that the selection of indicators and the collection of data can be improved by giving greater attention to participatory processes and partnerships involving government agencies, statistical organizations, human rights institutions and civil society at country level and that such an inclusive process will facilitate the selection of contextually relevant indicators, the disaggregation of statistical information, and data collection efforts that are more sensitive to human rights.

36. Millions around the world live in life- and health-threatening housing conditions, in overcrowded slums, and threatened to be forcibly evicted from their homes leaving them homeless, landless and in further poverty and marginalization. Forced eviction has been recognized by the international community as a gross violation of human rights and of the right to adequate housing in particular. Each year, OHCHR receives hundreds of complaints from individuals and communities on unjustified evictions that take place with no regards to human dignity and with little or no due process on the ways they are decided and conducted. To combat this phenomenon, the Office has continued its work to protect the victims, including by ensuring access to fair complaints procedures and due process requirements, and to mitigate their effects by ensuring access to adequate relocation and compensation. In 2011, OHCHR and UN-Habitat collaborated on the drafting of a report entitled "Losing your home: Assessing the impact of eviction", which has now been published. Through its review of a number of eviction impact assessment methodologies, the report demonstrates how the human and social costs of evictions and displacements are grossly underestimated.

<sup>7</sup> See [www2.ohchr.org/english/issues/education/training/UNDHREducationTraining.htm](http://www2.ohchr.org/english/issues/education/training/UNDHREducationTraining.htm).

<sup>8</sup> Council resolution 16/1 of 23 March 2011.

<sup>9</sup> General Assembly resolution 66/137 of 19 December 2011.

<sup>10</sup> E/2011/90 of 26 April 2011.

### **III. Activities of treaty bodies**

#### **A. Committee on Economic, Social and Cultural Rights**

37. As of 17 January 2012, there were 160 States parties to the International Covenant on Economic, Social and Cultural Rights, reflecting the same number of ratifications as in 2010 and 2011. On 10 December 2008, the General Assembly adopted the Optional Protocol to the Covenant, which was opened for signature and ratification on 24 September 2009. As of 18 January 2012, there were 7 States parties to the Protocol and 39 signatories.

38. The Committee on Economic, Social and Cultural Rights held two sessions during 2011 and considered the implementation of the Covenant in the following 10 States parties: Argentina, Cameroon, Estonia, Germany, Israel, the Republic of Moldova, the Russian Federation, Turkey, Turkmenistan and Yemen. The Committee adopted two statements, one on the obligations of States parties regarding the corporate sector and economic, social and cultural rights and another on the importance and relevance of the right to development. In the latter, the Committee recognized and reaffirmed “the linkage and the synergy between the International Covenant on Economic, Social and Cultural rights and the Declaration on the Right to Development”, and “resolved to continue monitoring the implementation of all the rights protected by the Covenant contributing simultaneously to the full realization of the relevant elements of the right to development”. The Committee also pursued discussions, related to the development of two general comments, on the rights to sexual and reproductive health and to just and favourable conditions of work, respectively.

#### **B. Sub-Committee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment**

39. In its annual report for 2011, the Sub-Committee on Prevention of Torture (SPT) set out its approach to the concept of prevention of torture and other cruel, inhuman or degrading treatment and punishment under the Optional Protocol to the Convention against Torture (CAT/C/46/2). In that context, it expressed great interest in the general situation within a country concerning the enjoyment of human rights (including economic, social and cultural rights) and how this affects the situation of persons deprived of their liberty, since the prevalence of torture and ill-treatment is influenced by a broad range of factors, including the general level of enjoyment of human rights and the rule of law, levels of poverty, social exclusion, corruption and discrimination. Thus, a holistic approach to the prevention of torture is followed by the Sub-Committee through its main pillar activities, namely its visits to places of deprivation of liberty as well as its work on National Preventive Mechanisms.

40. Accordingly, throughout 2011, the Sub-Committee puts its focus on the importance of human rights education in the prevention of torture, and on the correlation between corruption and the prevention of torture. Further, as SPT actively engages with the multi-faceted nature of development and human rights in its preventive work with States parties and their National Preventive Mechanisms under the Optional Protocol, SPT took the opportunity to highlight the linkages between the right to development and the prevention of torture on the launching of OHCHR’s programme of commemoration for the twenty-fifth anniversary of the United Nations Declaration on the Right to Development in 2011.

### **C. Committee on the Elimination of Racial Discrimination**

41. The Committee on the Elimination of Racial Discrimination adopted a general recommendation on racial discrimination against people of African descent on 3 October 2011.<sup>11</sup> The general recommendation urges States parties to the International Convention on the Elimination of All Forms of Racial Discrimination to “take steps to remove all obstacles that prevent the enjoyment of economic, social and cultural rights by people of African descent, especially in the areas of education, housing, employment and health”.<sup>12</sup>

### **D. Committee on the Rights of the Child**

42. In 2011, the Committee on the Rights of the Child examined 20 reports during its three sessions under the Convention on the Rights of the Child and 8 reports under its two Optional Protocols. The Committee, in its concluding observations under the Convention, continued to systematically make recommendations on the realization of children’s economic, social and cultural rights. In particular, with reference to the principle of non-discrimination contained in article 2 of the Convention, the Committee highlighted to reporting States the need for special measures to ensure that children in disadvantaged situations are able to access health and education services.

43. The Committee adopted a new general comment on the right of the child to freedom from all forms of violence.<sup>13</sup> The general comment aims, in part, to “promote a holistic approach to implementing article 19 based on the Convention’s overall perspective on securing children’s rights to survival, dignity, well-being, health, development, participation and non-discrimination – the fulfilment of which are threatened by violence”.

### **E. Committee on the Elimination of Discrimination against Women**

44. On 10 August 2011, the Committee on the Elimination of Discrimination against Women issued a landmark decision for women around the world, with its Views on the case of *Alyne Pimentel v. Brazil* (Communication No. 17/2008) - the first case decided on maternal mortality, concerning the death of an Afro-descendant poor woman for lack of adequate maternal health care. The Committee found violations of the rights to health and judicial protection, referring to the State party’s obligation to regulate the activities of private health service providers. The Views also include considerations on why lack of access to adequate maternal health services constitutes discrimination against women, and some references to multiple discrimination (gender and race).

## **IV. Activities of special procedures**

45. In accordance with Human Rights Council resolution 10/23, the Independent Expert in the field of cultural rights submitted a report to the Human Rights Council on the right of access to and enjoyment of cultural heritage (A/HRC/17/38). Taking into consideration international instruments and the practice of relevant monitoring bodies, the report investigates the extent to which the right of access to and enjoyment of cultural heritage forms part of international human rights law. The Independent Expert notes that it includes

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<sup>11</sup> General recommendation No. 34 (2011).

<sup>12</sup> General recommendation No. 34 (2011), para.50.

<sup>13</sup> General comment No. 13 (2011).

the right of individuals and communities to know, understand, enter, visit, make use of, maintain, exchange and develop cultural heritage, as well as to benefit from the cultural heritage and the creation of others. She stressed that cultural heritage is important not only in itself, but also in relation to its human dimension, in particular its significance for individuals and communities and their identity and development processes. The Independent Expert concludes her report with recommendations aimed at promoting a human rights-based approach to cultural heritage matters and addressed to States, professionals working in the field of cultural heritage and cultural institutions, researchers and tourism and entertainment industries. During the reporting period, the Independent Expert conducted field missions to Austria and Morocco.

46. The Special Rapporteur on extreme poverty and human rights continued her work on examining the effects of the global economic and financial crises on the human rights of people living in poverty. Her 2011 thematic report to the Human Rights Council examined austerity measures and detailed a human rights-based approach to recovery from the global financial and economic crises, with focus on those living in poverty. Her report to the General Assembly drew attention to the growing phenomena of the penalization and criminalization of people living in poverty (A/66/265). It urged States, *inter alia*, to take all necessary measures to eliminate all direct and indirect discrimination against persons living in poverty, to take special measures to protect those living in poverty from the violation of their rights by third parties and to ensure that the design and implementation of social benefit systems comply with human rights norms. In 2011, the Special Rapporteur conducted missions to Timor-Leste and Paraguay.

47. The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health submitted a thematic study to the eighteenth session of the Human Rights Council, focusing on the right to health of older persons (A/HRC/18/37). Presenting his study at the Council's panel discussion, the Special Rapporteur stressed that the rights of older persons are often considered to be a marginal area in human rights and that the rapidly ageing world presents significant challenges for the global community, including for the full enjoyment of the right to health. He called on States to empower older persons to exercise their rights, in particular the right to health, and to apply a right-to-health approach to the design, implementation, monitoring and evaluation of health-related policies and programmes in order to mitigate the negative consequences of an ageing society and ensure the enjoyment of this human right by older persons.

48. In October 2011, the Special Rapporteur submitted a report to the sixty-sixth session of the General Assembly on the impact of criminal laws and other legal restrictions relating to sexual and reproductive health on the realization of the right to health, particularly of women and girls (A/66/254). With a view to providing guidance on how to implement existing human rights obligations through effective policies and programmes, the Special Rapporteur suggested that the laws and policies on sexual and reproductive health should be legitimate subjects of human rights scrutiny. He further noted that the realization of the right to health requires the removal of barriers that interfere with individual decision-making on health-related issues and with access to health services, education and information.

49. The Special Rapporteur on the right to food presented a report to the Human Rights Council in March 2011 on agroecology and the right to food (A/HRC/16/49). The report explores how low-carbon, resource-preserving types of agriculture can benefit the poorest farmers and contribute to climate change mitigation and adaptation. In October 2011, the Special Rapporteur presented a report to the General Assembly exploring how more equitable value chains and business models inclusive of small-scale farmers can support the realization of the right to food. The Special Rapporteur also actively sought to integrate the

right to food into international debates on food and nutrition security, including through his engagement with the Committee on World Food Security. In October 2011, the Special Rapporteur provided an update on global progress made towards the realization of the right to food during the opening of the 37th session of the Committee on World Food Security.

50. In her annual report to the Human Rights Council, which should be read in conjunction with her report to the General Assembly in October 2011 (A/66/270), the Special Rapporteur on adequate housing focused on post-disaster and post-conflict reconstruction processes (A/HRC/16/42). In this connection, the Special Rapporteur also undertook a working visit to Haiti, which provided an illustrative case on the importance of utilizing a human rights-based approach to housing reconstruction in post-disaster settings. The Haiti visit consolidated the Special Rapporteur's work in this area which triggered considerable interest from international and local actors, particularly in the humanitarian relief sector, as well as the United Nations system. During the reporting period, the Special Rapporteur also led a project on women and the right to adequate housing with a view to assessing progress and the remaining challenges and presenting a gender-sensitive analysis. The Special Rapporteur undertook two country visits, to Argentina in April and Algeria in July 2011, and visited Israel and the Occupied Palestinian Territory at the beginning of 2012.

51. In his annual report to the Human Rights Council, the Special Rapporteur on the right to education focused on the promotion of equality of opportunity in education and described various sources of inequalities as well as suitable initiatives to address them (A/HRC/17/29). He recommended that disparities in access to education be given special consideration, recognizing that good policies backed by a commitment to equality can make a difference. The Special Rapporteur's report to the General Assembly in October 2011 addressed the domestic financing of basic education (A/64/290). It detailed human rights obligations for financing education and provided practical examples of national legal frameworks that ensure adequate financing. The report also contained an update on the situation of education in emergencies, pursuant to General Assembly resolution 64/290. The Special Rapporteur undertook two country visits, to Senegal in January and Kazakhstan in September 2011. During the reporting period, the Special Rapporteur also engaged in the preparation of a study on norms for quality in education analysing their importance in the realization of the right to education, which he will present to the twentieth session of the Human Rights Council in June 2012.

52. The Human Rights Council, in its resolution 16/2 extended the mandate of human rights obligations related to access to safe drinking water and sanitation which became that of a Special Rapporteur on the human right to safe drinking water and sanitation in March 2011. The Special Rapporteur's thematic report to the Council in September 2011 (A/HRC/18/33) focused on national plans for the realization of the rights to water and sanitation. The Special Rapporteur also submitted a compilation of good practices and reports on missions to Slovenia, Japan and the United States of America. She undertook country visits to the United States, Namibia and Senegal. The Special Rapporteur's report to the General Assembly discussed the issue of financing for the realization of the human rights to water and sanitation. In her capacity as a member of the Strategic Advisory Group, she contributed to the WHO-UNICEF Joint Monitoring Programme, which monitors the Millennium Development Goals related to water and sanitation.

## **V. Conclusions and recommendations**

53. **The Office of the United Nations High Commissioner for Human Rights will continue to pursue its mandate on all development issues with human rights dimensions, in particular on economic, social and cultural rights. In line with the High**

Commissioner's pledge made at the 2010 Millennium Development Goals review summit, OHCHR remains committed to providing technical assistance and support to Member States, upon their request, in integrating human rights into national development policies and strategies, including the achievement of the Millennium Development Goals by 2015 and shaping the post-2015 development agenda.

54. OHCHR will work to further strengthen partnerships with United Nations agencies to raise awareness and build the capacities of all United Nations staff members on human rights issues connected with their work. Developing and providing a more effective support strategy for Resident Coordinators and United Nations country teams, in the challenging context of global financial, food, energy, climate and other crises, will be a priority for the Office, as well as interagency efforts under the United Nations Development Group and other coordination mechanisms.

55. The present report has reviewed some of the challenges that States continue to face in relation to the realization of economic, social and cultural rights, as well as OHCHR's response to these challenges. It is clear that much remains to be done in combating discrimination, in strengthening the legal protection of economic, social and cultural rights and in mainstreaming human rights into national policy-making. Moreover, particular legal issues have arisen around long-standing human rights questions such as land and human rights and HIV and the law, and the challenge is the need to conscientiously apply a human rights-based approach to the resolution of such issues.

56. States should take effective steps to address inequality in access to and enjoyment of economic, social and cultural rights, taking into account, as noted by the Special Rapporteur on education, so that sound policies are rendered more effective when supported by a commitment to equality. It is clear that discrimination in access to essential services, such as health care and education, remains widespread and that entrenched discrimination and marginalization breed a sense of grievance that, in turn, sows instability and conflict.

57. States should adopt robust measures to address poverty, encompassing, as necessary, targeted measures to protect the most vulnerable members of society, and should integrate human rights into national development policies and poverty reduction strategies. In this respect, States are urged to ensure that the effects of and responses to the ongoing global financial and economic crises do not exacerbate or reinforce the historical marginalization of economic, social and cultural rights, particularly the right to an adequate standard of living and to the continuous improvement of living conditions.

58. States should ensure that rights which have tended to be neglected, such as the human rights of older persons and the right to take part in cultural life, receive the attention required to ensure their full exercise on an equal basis. In this regard, States should make provision for their meaningful and consistent integration into Government policy and human rights programming at all levels.

59. States should strengthen the legal protection of economic, social and cultural rights, including the right to remedies in case of violations. OHCHR encourages the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which requires a few more ratifications to enter into force. Likewise, the ratification of the third Optional Protocol to the Convention on the Rights of the Child will also expand the protection of the economic, social and cultural rights of children.