

# ICESCR: Economic, Social and Cultural Rights v COVID-19



International Covenant on  
Economic Social and Cultural Rights

25 August 2021

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**UN Committee on Economic, Social and Cultural Rights**

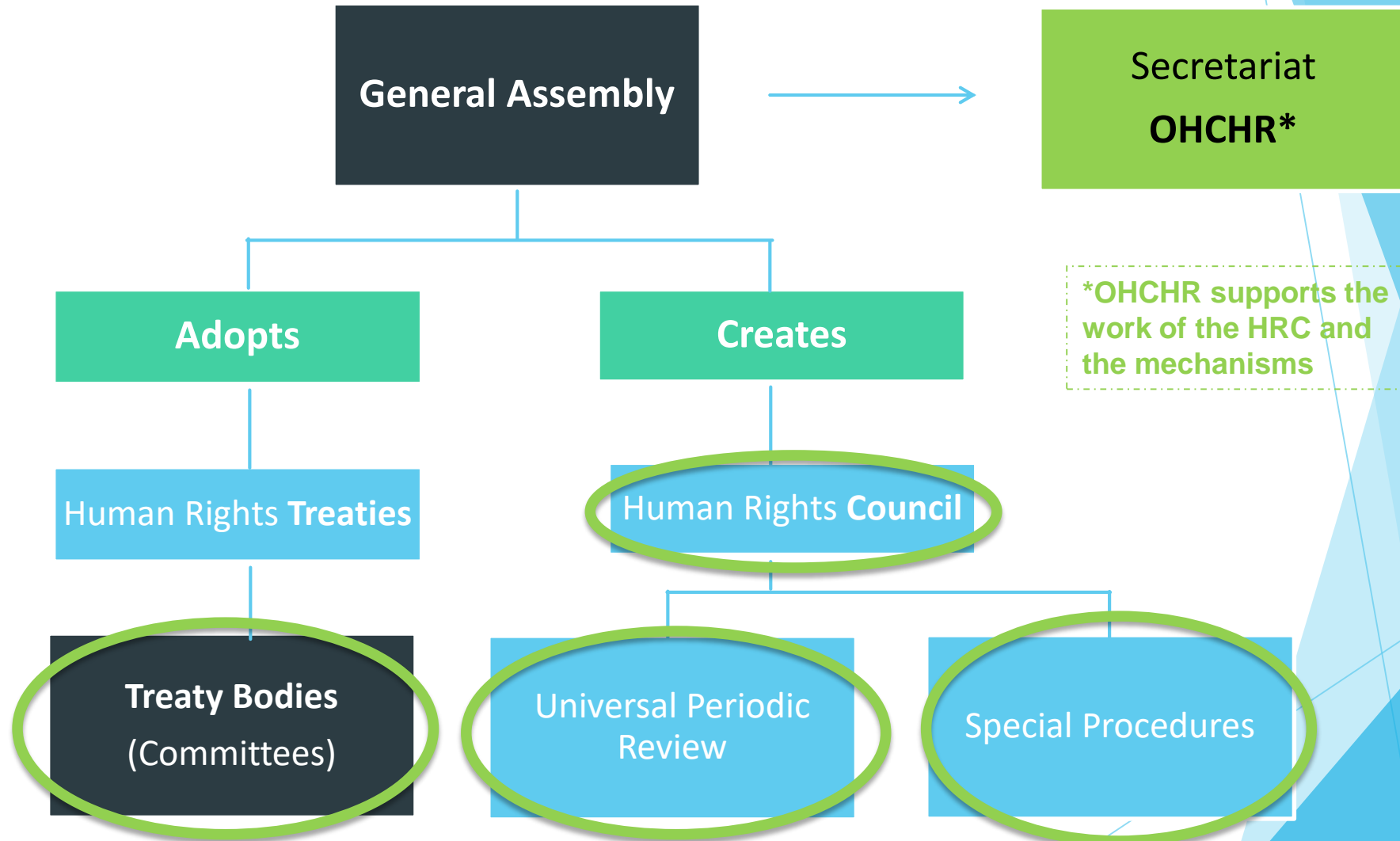


## Key points on ICESCR v COVID-19

- ‘Ecosystem’ of human rights standards
- How the CESCR operates?
- COVID-19’s impacts on ESCRs
- ICESCR statements on COVID-19
- COVID-19 and lockdown measures
- COVID-19 and Safety Net: Not ‘Wide’ enough, Not ‘Warm’ enough!
- Path to Recovery



# The UN main Human Rights Mechanisms





# Overview of international human rights treaties

## Specific phenomena

## Specific groups

Universal Declaration of Human Rights



International Covenant on  
Civil and Political Rights

International Covenant on  
Economic, Social and  
Cultural Rights

International  
Convention on the  
Elimination of All  
Forms of **Racial  
Discrimination**

Convention against  
**Torture** and other  
Inhuman, Degrading  
Treatment or  
Punishment

Convention on  
**Enforced  
Disappearances**

International  
Convention on the  
Elimination of All  
Forms of  
Discrimination against  
**Women**

Convention on the  
Rights of the **Child**

Convention the rights  
of **Migrant Workers**  
and members of their  
families

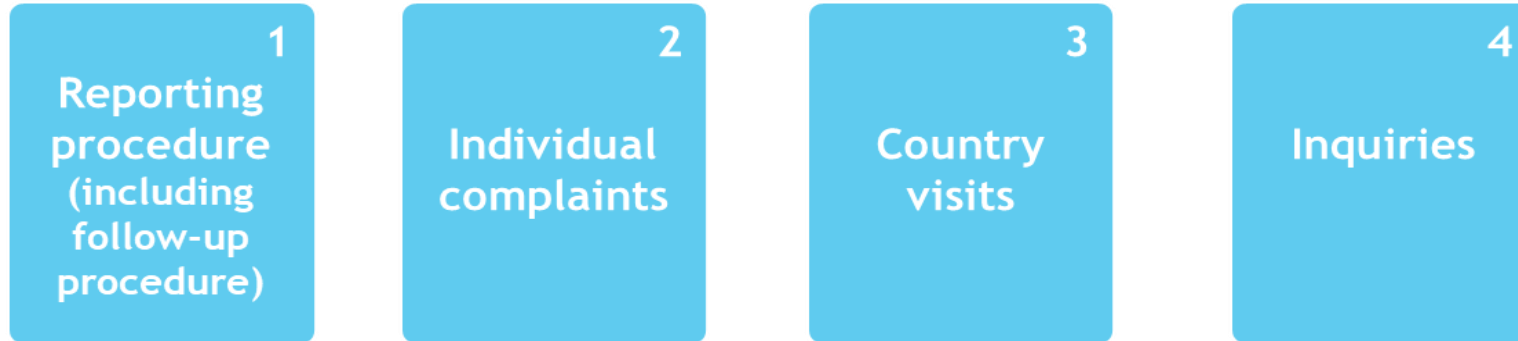
Convention the rights  
of **persons with  
disabilities**

Interrelatedness  
Interdependent  
Indivisibility

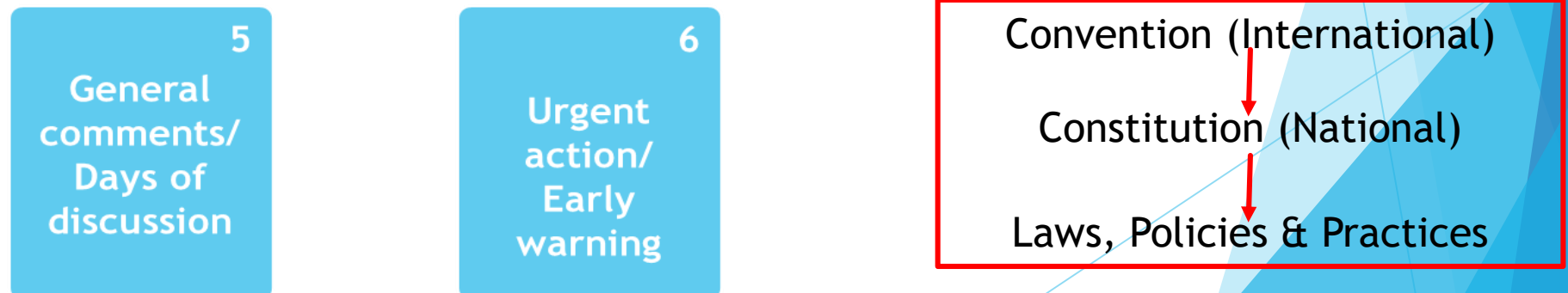


# Six KEY Functions

Treaty Bodies monitor State parties' compliance with their **treaty obligations** through:



Treaty Bodies interpret the treaties and prevent human rights violations through:



State Reports

List of Issues (LOIs) through Working Group

Concluding Observations (CoBs)

General Comments

- GC 15 Right to Water → Sufficient & safe water for present & future generations
- GC 14 Right to Health → Environmental Hygiene
- GC 12 Right to Adequate Food → Adoption of appropriate economic, environmental & social policies at both the national and international levels.
- GC 4 Right to Adequate Housing → Nexus between ‘adequacy’ & social, economic, cultural, climatic, ecological and other factors
- GC26 (draft) Right to Land
- GC27 (pipeline) Sustainable Development
- **GC >28? Climate Change and CESCR?**

Communications

Optional Protocol



Cluster 1  
Arts 1-5

Cluster 2  
Arts 6-9

RIGHTS PROTECTED BY THE ICESCR:



Article 1: Self-determination



Article 6: Work  
GC18 Right to Work



Article 7: Just and favorable conditions of work

GC23 Right to Just & Favorable Conditions of Work



Article 8: Form and join trade unions and strike

COVID-19



- Job termination
- Mobility (access)
- Evolution of work
- Discrimination
- Vaccines!!



# COVID-19

## Cluster 2 Arts 6-9

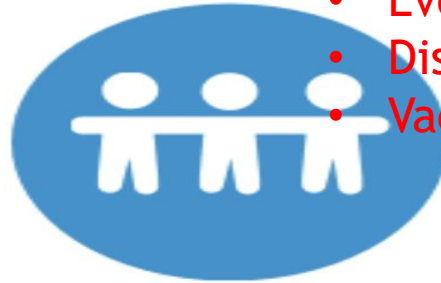
## Cluster 3 Arts 10-12

- Digital equity
- Adjustment & Impact
- Evolution of work
- Discrimination
- Vaccines!!



Article 9:  
Social security including social insurance

GC19 Right to Social Security



Article 10:  
Protection and assistance for the family and prohibition of child labor



Article 11: An adequate standard of living for oneself and one's family and to the continuous improvement of living conditions

GC15 Right to Water  
GC 11 Right to Adequate Food  
GC 7 & 4 Right to Housing<sup>8</sup>



Article 12:  
The highest attainable standard of physical and mental health

GC22 Right to Sexual & Reproductive Health  
GC15 Right to Water  
GC 14 Right to highest Attainable Standard of Health





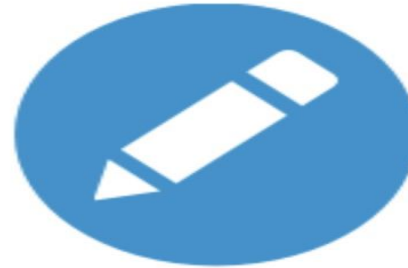
## Children's access to education during COVID-19 pandemic

### Cluster 4 Arts 13-15



**Article 13:**  
Education  
directed at the  
full development  
of the human  
personality and  
the sense of its  
dignity to  
strengthen  
respect for  
human rights and  
fundamental  
freedoms

**GC13 Right to Education**



**Article 14:**  
Freedom of  
parents to  
choose schools  
other than those  
established by  
public authorities

**GC11 Plan of Action for  
Primary Education**



**Article 15:** Take  
part in cultural  
life and to benefit  
from scientific  
progress

- GC 25 Science and economic, social and cultural rights
- GC 21 Right of everyone to take part in cultural life
- GC 17 Protection of the moral & material interests of the author

- Universal access to vaccines/treatment of COVID-19
- Cultural life affected by lockdown

**Economic and Social Council**

Distr.: General  
17 April 2020

Original: English

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**Committee on Economic, Social and Cultural Rights****Statement on the coronavirus disease (COVID-19) pandemic  
and economic, social and cultural rights****Statement by the Committee on Economic, Social and Cultural Rights\*****I. Introduction**

1. The COVID-19 pandemic is threatening to overwhelm public health-care systems, and is having devastating impacts throughout the world on all spheres of life – the economy, social security, education and food production. Tens of thousands of lives have already been lost, including those of doctors and nurses providing front-line medical treatment. Jobs have been lost and livelihoods imperilled as a result of restrictions imposed to curb the transmission of the virus, such as lockdowns. Schools are closed in many affected countries, and people cannot gather for significant cultural and community events such as religious services, weddings or funerals. At the outset of its statement, the Committee extends its sympathy to all victims of the pandemic and their families, as well as the broader communities of which they are part.

**Economic and Social Council**

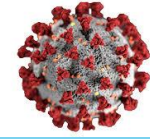
Distr.: General  
15 December 2020

Original: English

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**Committee on Economic, Social and Cultural Rights****Statement on universal and equitable access to vaccines for  
the coronavirus disease (COVID-19)****Statement by the Committee on Economic, Social and Cultural Rights\***

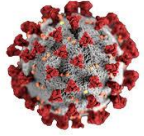
1. A safe and effective vaccine is expected to reduce the health and life risks posed by the coronavirus disease (COVID-19), while allowing the progressive lifting of some restrictive measures that have been necessary to combat the spread of the virus. It will also help to recover from the serious negative impact that these measures have had on the enjoyment of economic, social and cultural rights, especially by the most disadvantaged and marginalized populations. For that reason, it is important and encouraging news for the world that several vaccines for COVID-19 might be approved soon by health authorities, after following the relevant World Health Organization (WHO) technical guidance documents for COVID-19 vaccines and other biologicals in order to guarantee their safety and effectiveness.<sup>1</sup> In that context, the Committee considers it necessary to remind State parties of their obligation under the Covenant in this area, in order to avoid unjustified discrimination and inequalities in access to COVID-19 vaccines.<sup>2</sup>



1. COVID-19 is not just a health issue, but poses political, economic, social and cultural problems as well.
2. Lockdown measures are by definition limitation of human rights (freedom of movement and in many cases freedom of expression); they must be subject to the test of necessity, reasonableness, and proportionality.
3. Relief measures are conceived as afterthought, despite recurrence of outbreak.
4. Different groups are affected differently; the lockdown measures that are generally standardized cause some groups to suffer more than others, eg independent professionals (taxi drivers/motorcycle riders/hairdressers), travel and hotel industries, education sector.
5. Information is not provided comprehensively, especially the assessment of effectiveness of lockdown and its renewal or extension.

All States parties should, as a matter of urgency, adopt special, targeted measures, including through international cooperation, to protect and mitigate the impact of the pandemic on vulnerable groups such as older persons, persons with disabilities, refugees and conflict-affected populations, as well as communities and groups subject to structural discrimination and disadvantage.

CESCR Statement on COVID-19, 17 November 2020, para 15.



# COVID19 and Safety Net (Not Wide enough, not 'Warm' enough)

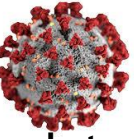


International Covenant on  
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1. Vulnerable groups are not identified comprehensively. Some are missing out, eg sex workers, indigenous peoples, people with disabilities who are unregistered, undocumented migrant workers and people with mental health issues.
2. Non-nationals are more marginalized than others and tend to be discriminated against on various policies, particularly healthcare and state assistance. Stigmatization of migrant workers as COVID-19 spreaders is a good example.
3. Assistance that has been provided tends to be one time financial programme and does not take into account the recurrence of the pandemic.
4. Likewise, it is not targeted or sensitive to the different requirements of relevant groups.
5. Incidents are found of increasing number of urban poor and people without shelters. People are rapidly falling into poverty cliff.

...Such measures include, among others, providing water, soap and sanitizer to communities that lack them; implementing targeted programmes to protect the jobs, wages and benefits of all workers, including undocumented migrant workers; imposing a moratorium on evictions or mortgage bond foreclosures against people's homes during the pandemic; providing social relief and income-support programmes to ensure food and income security to all those in need; taking specially tailored measures to protect the health and livelihoods of vulnerable minority groups, such as the Roma, as well as those of indigenous peoples; and ensuring affordable and equitable access to Internet services by all for educational purposes.

CESCR Statement on COVID-19, 17 November 2020, para 15.



# COVID19 Vaccines & Marginalized Groups

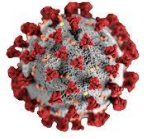


International Covenant on  
Economic Social and Cultural Rights

1. International cooperation on vaccines is limited. Regional cooperation is wholly absent. COVAX is a distinct exception and is limited in scale and coverage. Assistance is invariably bilateral, depending on the policy of donor countries. (regression of SDGs 3, 10 and 17). In many developing and least developed ones, majority of people have not received any vaccines.
2. Scientific data on COVID-19 and vaccines is highly dynamic. Budget reprioritization and reallocation must be used accordingly. Clarity of communication and information is essential to ensure policy coherence and understanding.
3. The human rights goal of vaccination is to provide vaccines to ‘everyone’, not just to create a ‘herd immunity’.
4. Emerging data points to the need for **booster vaccines** to provide continuous protection. Policy framework must be flexible and fully based on scientific data and must be geared toward universal provision.
5. **“Vaccine governance”** is under planned and under implemented, characterized by the lack of openness of data and information, lack of participation of CSOs and absence of robust conflict of interests prevention.
6. **Treatment and early detection** are integral part of the right to health but until recently were neglected. Where universal healthcare is adopted, they must be part of healthcare provision without expense, like vaccines.

Access to a vaccine against COVID-19 that is safe, effective and based on the best scientific developments is an essential component of the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the right of everyone to enjoy the benefits of scientific progress and its applications. States therefore have an obligation to take all the necessary measures, as a matter of priority and to the maximum of their available resources, to guarantee all persons access to vaccines against COVID-19, without any discrimination

CESCR Statement on COVID-19  
Vaccines, 23 April 2021, para 3



1. Recovery must be planned and executed with sustainability and equity as compass. This means, et al: **Prevention** (Vaccines, Treatment & Testing), **Preparation** (Vaccine development, Awarenesss raising, Adaptation), **Partnership** (Regional/International cooperation), and **Restoration** (Continued and enhanced financial assistance/ Debt restructuring).
2. Work will not be the same! Mechanization and AI will replace labor intensive jobs. Skills will also change toward IT-based. Skill enhancement and realignment will be a key challenge for States and workforce. The latter is at more risk of lagging behind.
3. COVID-19 pandemic underscores the importance of freedom of expression and the right to participate in public decision-making. COVID-19 affects everyone at different degrees, thus people's voices must be heard so that policies are accountable and responsive to their needs.
4. Reform of corrections system. People in detention or incarceration are denied proper prevention and treatment of COVID-19. Overcrowdedness caused by narcotics-use criminalization exacerbates the problem.
5. While the origin of COVID-19 is being ascertained, its zoonotic trait highlights the need for structural adjustments/ adaptations to prevent the next pandemic. These include climate change and deforestation. Climate change itself will cause further damage, and will lead to multiplicity of disasters. Permafrost alone will unleash greenhouse gases and ancient bacteria and viruses that may lead to another zoonotic pandemic.
6. In the long run, guarantee minimum income or basic income scheme will be a key safety net measure.

# Summary

- Lock down responsibly, recover equitably!
- COVID-19 is a major disruption to human rights and sustainability, but will not be the last pandemic or global disaster. The lesson will be learned in different ways, but human resilience will be a key message.