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The Global Initiative  
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## **Recognizing the Interdependence and Indivisibility of the Right to Life with ESC Rights**

### **Written Submissions for the General Discussion on the Preparation for a General Comment on Article 6 (Right to Life)**

**Submitted by:**

**ESCR-Net jointly with the Social Rights *Advocacy* Centre and the Global  
Initiative for Economic, Social and Cultural Rights**

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## **A. Introduction and Overview**

1. ESCR-Net is a collaborative network of groups and individuals from around the world working to secure human rights and social justice, with a focus on the economic, social and cultural (ESC) rights and the rights of the most marginalized and disadvantaged groups. The Social Rights Advocacy Centre (SRAC) is a non-profit NGO located in Canada dedicated to ensuring the equal enjoyment of social rights through research, public education and legal advocacy. The Global Initiative for Economic, Social and Cultural Rights is an international human rights organization engaged in advocacy of social rights, including through the principle of indivisibility, interdependence and interrelatedness of all rights.

2. In reassessing and updating the scope of protections afforded by the right to life in article 6, the organizations named above believe that the Human Rights Committee should reaffirm the interdependence and indivisibility of civil and political with ESC rights in the context of the modern recognition that both categories of rights are justiciable and subject to effective remedies.

3. The right to life is foundational to all human rights as originally articulated in the unified context of the Universal Declaration of Human Rights and as such spans both ESC and civil and political rights. This Committee as well as the Committee on Economic, Social and Cultural Rights has recognized that obligations emerging from the right to life frequently overlap with ESC rights obligations. This Committee has recognized that the protection of life not only requires States to refrain from engaging in actions which result in the deprivation or interference with the right to life, but also requires States to adopt positive legislative and programmatic measures to ensure access to health care, housing, food, water, sanitation and other necessities.

4. As the Committee affirmed in General Comment 6, “[t]he expression “inherent right to life” cannot properly be understood in a restrictive manner, and the protection of this right requires that States adopt positive measures. In this connection, the Committee considers that it would be desirable for States parties to take all possible measures to reduce infant mortality

and to increase life expectancy, especially in adopting measures to eliminate malnutrition and epidemics.” Obligations to take positive measures to address systemic deprivations of the right to life such as these may take time and resources to fulfill. It is therefore helpful in the context of this Committee’s renewed consideration of the scope of the right to life to take into account advances made with respect to ensuring effective remedies for ESC rights violations linked to positive obligations and progressive realization.

5. While the Human Rights Committee and the Committee on Economic Social and Cultural Rights have very distinctive roles, defined by particular rights contained in the two Covenants, the right to life should not be interpreted narrowly or deprived of its inherent connection to ESC rights in order to sustain a formal division of roles between treaty bodies. The paramount consideration in interpreting the scope of the right to life must be to ensure that all rights-holders enjoy the full and equal protection of the right, regardless of the types of obligations on States which may be required for the realization of the right. The fact that some violations of the right to life result from States’ failures to adopt measures or strategies to address socio-economic deprivation or to ensure access to water, housing, food or health care should not deprive those whose right to life has been violated by such deprivations of the equal protection of the right to life.

6. The lives and security of millions of rights holders rely on States not simply to refrain from actions which interfere with the right to life but also to fulfill substantive, programmatic obligations to protect and ensure the right to life. An approach to the right to life that neglects these programmatic obligations would deprive many of the most vulnerable groups, whose life and security depends on such measures, of the equal enjoyment of the right to life, contrary to article 2(1) of the Covenant.

## **B. The Modern Context for the Interdependence and Indivisibility of the Right to Life with ESC Rights**

7. At the time of the adoption of this Committee’s General Comment 6 on the right to life in 1982, the prevailing view was that because many components of ESC rights are subject

to progressive realization, they are best characterized as aspirational goals of social and economic policy, assessed on the basis of collective data related to economic development and not generally subject to individual legal remedies. By contrast, civil and political rights were thought to involve obligations of immediate effect that are subject to individual claims, judicial review and immediate remedy. This differentiation between the two sets of rights had been reinforced by the adoption of an optional individual complaints procedure for the ICCPR when no similar optional protocol was adopted for the ICESCR.

8. In the more than three decades since the adoption of General Comment 6, however, the “aspirational” view of ESC rights has been replaced by an understanding that the equal status of ESC rights requires equal access to justice and effective remedies for individuals and groups who are victims of violations. In the 1990s, civil society and human rights experts called for return to a unified conception of human rights. The *Vienna Declaration of Human Rights* in 1993 reaffirmed the indivisibility of all human rights, stated that all rights must be treated on an equal footing, and consequently recommended the development of an optional complaints procedure for the ICESCR.<sup>1</sup> The Maastricht Guidelines adopted in 1997 repeated the call for an optional protocol, affirming that victims of violations of ESC rights “should have access to effective judicial or other appropriate remedies at both national and international levels.”<sup>2</sup> “The fact that the full realization of most economic, social and cultural rights can only be achieved progressively, which in fact also applies to most civil and political rights, does not alter the nature of the legal obligation of States ...”<sup>3</sup> On December 10, 2008, the UN General Assembly eradicated the final vestiges of the historic divide between the two sets of rights by adopting the *Optional Protocol to the ICESCR*.<sup>4</sup> Recognizing the justiciability of all components of ESC rights was heralded by Louise Arbour, then UN High Commissioner on Human Rights, as “human rights made whole.”<sup>5</sup> In the same year, the *Convention on the Rights of Persons with Disabilities* (CRPD) was

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<sup>1</sup> *Vienna Declaration and Programme of Action*, A/CONF.157/23, at para 75.

<sup>2</sup> *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights*, Maastricht, January 22-26, 1997 at para 22.

<sup>3</sup> *Ibid* at para 8.

<sup>4</sup> *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*, GA Res 63/117, UNGAOR, 63d Sess, Supp No 49, UN Doc A/RES/63/117, (2008).

<sup>5</sup> Louise Arbour, “Human Rights Made Whole” *Project Syndicate* (26 June 2008), online: Project Syndicate <<http://www.project-syndicate.org/commentary/arbours1/English>>.

adopted, along with its optional complaints procedure, combining civil and political and economic, social and cultural rights of persons with disabilities within a single convention.

9. Obligations under various human rights treaties are now better understood as overlapping and converging and equally subject to adjudication and effective remedies. Positive measures required to accommodate the needs of persons with disabilities may simultaneously engage the right to life, to equality and non-discrimination, to live independently, to adequate housing, to health and a range of other rights. Positive measures required for the progressive realization of ESC rights may also be necessary for the protection of the right to life, to non-discrimination and equality and many other civil and political rights. The right to life must also be interpreted in a manner which more adequately addresses the realities of women. While the right to life has traditionally focused on freedom from the arbitrary deprivation of life in the public sphere by State actors, the overwhelming number of arbitrary deprivation of life for women occur within the private sphere at the hands of men with whom they are familiar, and are linked to myriad failures of States to adopt positive measures to address systemic violence and inequality.<sup>6</sup>

10. It remains important, of course, to distinguish obligations of immediate effect from those which may require time to implement and for which the standard of compliance may be assessed relative to available resources. The obligations to respect and protect the right to life is a non-derogable obligation of immediate effect. Other aspects of the right to life, however, such as adopting positive measures to ameliorate homelessness or hunger or reducing infant mortality, developing health services in under-serviced areas or addressing programmatic needs of persons with disabilities may require time to implement and be assessed relative to available resources. Compliance with these types of obligations may be more amenable to standards of reasonableness and may benefit from remedial approaches that have evolved in relation to ESC rights.

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<sup>6</sup> Athena Nguyen, *Through the Eyes of Women? The Jurisprudence of the CEDAW Committee*, Outskirts Online Journal, Volume 30, May 2014 < <http://www.outskirts.arts.uwa.edu.au/volumes/volume-30/athena-nguyen> >

### **C. Building on the Commentary and Jurisprudence of this Committee with respect to the Right to Life**

11. The evolving jurisprudence and commentary of this Committee with respect to the right to life is consistent with emerging understandings of converging and interdependent obligations arising from both ESC and civil and political rights. Following on the recognition in General Comment 6 that the right to life should not be understood in a restrictive sense and requires programmatic measures to address systemic patterns such as infant mortality, the Committee has clarified that article 6 imposes on States positive obligations that frequently overlap with obligations linked to ESC rights.

12. The Committee has recognized that the absence of a specific ‘right to health’ provision within the ICCPR does not mean that access to health care may not be raised under the right to life (Article 6).<sup>7</sup> It has clarified that article 6 requires that States adopt positive measures to address homelessness in circumstances where homelessness leads to serious health consequences and may even cause death.<sup>8</sup> It has recognized that measures which restrict “access to all basic and life-saving services such as food, health, electricity, water and sanitation” are contrary to article 6.<sup>9</sup> It has expressed concern that article 6 may be violated by a “lack of measures to deal with food and nutrition situation and lack of measures to address, in cooperation with the international community, causes and consequences of drought and other natural disasters”<sup>10</sup> The Committee has found that disconnections of or otherwise denying access to water supply and destruction of sanitation infrastructure can rise to a violation of the right to life<sup>11</sup> and has used interim measures to ensure reconnection of water supplies that had been disconnected.<sup>12</sup> Similarly it has stated that the failure to take steps to prevent the spread of diseases such as tuberculosis, may violate Article 6.<sup>13</sup> The Committee has repeatedly emphasized that article 6 requires states to ensure that all women,

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<sup>7</sup> *Cabal and Pasini v Australia*, Communication No. 1020/2001, Views of 7 August 2003 at para 7.7.

<sup>8</sup> CCPR/C/79/Add.105, (1999) at para 12.

<sup>9</sup> CCPR/C/ISR/CO/4 (2014).

<sup>10</sup> CCPR/CO/72/PRK (2001).

<sup>11</sup> CCPR/C/ISR/CO/3 (2010); CCPR/C/ISR/CO/4 (2014).

<sup>12</sup> *See, Liliana Assenova Naidenova et al. v. Bulgaria*, Comm No. 2073/2011 (2011).

<sup>13</sup> CCPR/CO/75/MDA (2002).

in all regions of a country, have access to reproductive health services.<sup>14</sup> As observed by Sarah Joseph, the Committee’s evolving approach to the obligations with respect to article 6 in relation to health extends such obligations “to the taking of such steps to maintain an adequate standard of health.”<sup>15</sup>

13. Recognizing these links between the right to life and ESC rights in no way undermines the distinctive roles and authorities of the Committee on Economic, Social and Cultural Rights or other treaty bodies in relation to this Committee. On the contrary, interpreting and applying the right to life is the unique mandate of this Committee and directly engaging with some of the most egregious and systemic violations of the right to life is this Committee’s responsibility. Refusing to ignore systemic violations that happen to overlap with ESC rights only ensures the integrity and inclusiveness of the Committee’s interpretation and application of the right to life. It is the most vulnerable groups and individuals who are most likely to have lives placed at risk by lack of water, sanitation, health care, housing or food. Excluding the lives of members of the most vulnerable groups from the scope of the protections afforded by the universal right to life would send an unacceptable message of exclusion and unequal consideration that is entirely incompatible with the paramount and universal nature of the guarantee of the right to life and the core values of the inherent worth and dignity of every person.

14. A central concern that should animate the content of the new General Comment on Article 6 is therefore that systemic violations of the right to life, affecting millions worldwide and resulting in massive numbers of deaths, have not received the requisite attention of human rights treaty bodies and domestic courts. While this Committee has been clear that the right to life places both positive and negative obligations on States, the focus of periodic reviews and communications related to article 6 has been on state action that interferes with the right to life rather than state inaction in the face of systemic deprivations of the right.

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<sup>14</sup> CCPR/C/PRY/CO/3 (2013) at para 13; CCPR/CO/77/MLI (2003) at para 14; CCPR/CO/75/GMB (2004) at para 17; CCPR/CO/83/KEN (2005) at para 14; Peru CCPR/C/70/PER (2000) at para 20; Tanzania. CCPR/C/79/Add.97 (1998) at para 15; Chile CCPR/C/79/Add.104 (1999) at para 15; CCPR/CO/71/VEN (2001) at para 19; CCPR/CO/82/POL (2004) at para. 8, CCPR/CO/72/GTM (2001) at para 19; CCPR/C/NIC/CO/3 (2008) at para 13; ; CCPR/CO/80/COL (2004) at para 13.

<sup>15</sup> Sarah Joseph, Jenny Schultz & Melissa Castan, *“The International Covenant on Civil and Political rights: cases, materials, and commentary”* (Oxford University Press: 2004) at 183.



15. It is important that the new General Comment on article 6 make it clear to States that inaction in the face of systemic violations of the right to life also constitutes a serious violation of article 6. Victims of such violations must have improved access to justice and more effective remedies under domestic law. A new General Comment can have a significant impact in encouraging both governments and courts to adopt a broad and inclusive interpretation of the scope of article 6 so as to more directly engage with some of the most serious and widespread violations.

#### **D. Evolving Domestic Jurisprudence**

16. An expansive understanding of the scope and application of the right to life as convergent and interdependent with components of ESC rights is also consistent with the evolving approach in domestic courts.

17. The Supreme Court of India has played an important leadership role in this respect. That Court has affirmed that “(the) right to life guaranteed in any civilised society implies the right to food, water, decent environment, education, medical care and shelter.”<sup>16</sup> The Supreme Court has recognized that the right to health is “an inalienable component of the right to life” “which would include the right to access government (public) health facilities and receive a minimum standard of treatment and care.”<sup>17</sup> The Court has applied the right to life to ensure access to education,<sup>18</sup> to water<sup>19</sup> and to housing.<sup>20</sup> The Indian Supreme Court’s recognition that the right to life imposes positive obligations on governments to address hunger and ensure access to food has saved thousands of lives in the case of

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<sup>16</sup> Supreme Court of India, *Chameli Singh & Others v. State of Uttar Pradesh*, 1996; SC, *Francis Coralie Mullin v. Union Territory of Delhi and Others*, 1981.

<sup>17</sup> *Laxmi Mandal v Deen Dayal Harinagar Hospital and Others*, WP(C) 8853/2008, Judgment of 4 June 2010, High Court of Delhi at paras 20-21; *Paschim Banga Khet Mazdoor Samity & Ors v. State of West Bengal & Anor* (1996).

<sup>18</sup> *Mohini Jain v. State of Karnataka*, Supreme Court of India, Writ petition No. 456 (1991).

<sup>19</sup> SC, *Narmada Bachao Andolan v. Union of India*, 2000.

<sup>20</sup> *Olga Tellis v. Bombay Municipal Corporation*, Supreme Court of India, Decision 3 SCC 545 (1985).

*People's Union for Civil Liberties v. Union of India & Others (PUCL)*, Supreme Court of India, Petition (Civil) No. 196/2001 (2001).<sup>21</sup>

18. Many other courts around the world have similarly recognized that protections of the right to life invariably overlap with protections of ESC rights. The Colombian Constitutional Court linked the protection of the right to health to the right to life in a series of decisions which have led to important systemic changes to the health care system in order to meet the needs of IDPs.<sup>22</sup> Other courts around the world, including Argentina,<sup>23</sup> Brazil,<sup>24</sup> Bangladesh,<sup>25</sup> Pakistan,<sup>26</sup> Colombia,<sup>27</sup> the United Kingdom,<sup>28</sup> Mexico,<sup>29</sup> Ecuador,<sup>30</sup> El Salvador<sup>31</sup> Venezuela,<sup>32</sup> Kenya,<sup>33</sup> and South Africa<sup>34</sup> have recognized that the right to life is inseparable from the right to access health care and other ESC rights.

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<sup>21</sup> *People's Union for Civil Liberties v. Union of India & Others (PUCL)*, Supreme Court of India, Petition (Civil) No. 196/2001 (2001)

<sup>22</sup> T- 974/10 (2010) or T-841 (2011)

<sup>23</sup> *Reynoso, Nilda Noemí c/INSSJP/amparo*, May 16, 2006 (Supreme Court of Argentina) online: <[http://www.revistarap.com.ar/Derecho/constitucional\\_e\\_internacional/accion\\_de\\_amparo/reynoso\\_nilda\\_noem\\_i\\_c\\_inssjp\\_s\\_amparo.html](http://www.revistarap.com.ar/Derecho/constitucional_e_internacional/accion_de_amparo/reynoso_nilda_noem_i_c_inssjp_s_amparo.html)>. See also *Campodonico de Beviacqua, Ana Carina v. Ministerio de Salud y Banco de Drogas Neoplasicas*, Supreme Court of Argentina, 24 October 2000, as discussed in Christian Courtis, "Argentina: Some Promising Signs" in Malcolm Langford, ed, *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law* (Cambridge: Cambridge University Press, 2008) 163 at 172.

<sup>24</sup> *Viera v Porto Alegre* (RE 271286 AgR/RS) (2000), as discussed in Flavia Piovesan, "Impact and Challenges of Social Rights in the Courts" in Malcolm Langford, ed, *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law* (Cambridge: Cambridge University Press, 2008) 182 at 185-187.

<sup>25</sup> *Rabia Bhuiyan v. Ministry of Local Government, Rural Development*, 59 DLR (AD) 176 (2007) online: <<http://www.globalhealthrights.org/wp-content/uploads/2013/02/SC-2007-Rabia-Bhuiyan-v.-LGRD.pdf>>; See also *Dr. Mohiuddin Farooque v. Bangladesh* 48 DLR (1996) 438 (both cases discussed in Iain Byrne and Sara Hossein, "South Asia: Economic and Social Rights Case Law of Bangladesh, Nepal, Pakistan and Sri Lanka" in Malcolm Langford, ed, *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law* (Cambridge: Cambridge University Press, 2008) 125 at 127, 134, 136.)

<sup>26</sup> See *Ibid* at 136.

<sup>27</sup> *Sala Segunda de Revisión, Sentencia T-760 (2008)* (Colombia). "Judgment T-760/08 (July 31, 2008) online: <[http://www.globalhealthrights.org/wp-content/uploads/2013/08/English\\_summary\\_T-760.pdf](http://www.globalhealthrights.org/wp-content/uploads/2013/08/English_summary_T-760.pdf)>.

<sup>28</sup> *Burke, R (on the application of) v General Medical Council and Ors*, [2005] EWCA Civ 1003 at paras 39, 53.

<sup>29</sup> *Case "Special Care Unit 13" (Pabellón 13)* regarding patients with HIV-AIDS brought against the National Institute of Respiratory Diseases (INER) and other authorities (AR 378/2014).

<sup>30</sup> *Mendoza & Ors v. Ministry of Public Health Resolution No. 0749-2003-RA* (28 Jan 2004) (Constitutional Court of Ecuador).

<sup>31</sup> *Mr Jorge Odir Miranda Cortez vs la Directora del instituto Salvadoreño del Seguro Social*, File No. 348-99 (4 April 2001) Constitutional Court of El Salvador, as discussed in Hans V. Hoyerzeil, Melania Samson and Jaime Vidal Casanova, "Ruling for Access: Leading court cases in developing countries on access to essential medicines as part of the fulfilment of the right to health" (World Health Organization Department of Essential Drugs and Medicines Policy, November 2004) online: <[http://www.who.int/medicines/areas/human\\_rights/Details\\_on\\_20\\_court\\_cases.pdf](http://www.who.int/medicines/areas/human_rights/Details_on_20_court_cases.pdf)>.

<sup>32</sup> *Cruz del Valle Bermúdez y otros v MSAS s/amparo. Expediente N° 15.789. Sentencia N° 196*, Supreme Court of Venezuela (May 15, 1999) online <[http://www.escri-net.org/caselaw/caselaw\\_show.htm?doc\\_id=406005&focus=13991](http://www.escri-net.org/caselaw/caselaw_show.htm?doc_id=406005&focus=13991)>.

19. Recognizing the interdependence of the right to life with ESC rights is essential to ensuring access to effective remedies for violations of the right to life under domestic law. In many countries, those whose life or health is put at risk by deprivations of access to food, housing, water or sanitation rely on domestic constitutional protections of the right to life to seek effective remedies. On the other hand, where domestic courts have rejected claims to the right to life linked to socio-economic rights by categorizing such claims as exclusively socio-economic rights, the result has usually been the denial of effective remedies to what would otherwise be seen as obvious violations of the right to life.

20. In Canada, for example, the Supreme Court has held that government measures which deny more affluent health care consumers access to private health care violate the right to life.<sup>35</sup> Lower courts, however, have subsequently held that measures denying vulnerable groups access to the **publicly** funded health care on which they rely do **not** violate the right to life. The courts have reasoned that because there is no self-standing right to health in the Canadian Charter of Rights and Freedoms, the lives of the more affluent are protected by the right to life from interference with access to health care but the lives of those without the means to pay for health care are not similarly protected.<sup>36</sup>

21. In order to ensure the equal enjoyment of the right to life by vulnerable groups and to ensure access to justice under domestic law, it is important for the Committee to clarify in its new General Comment that that obligations to take positive measures to protect the right to life, including measures to address the effects of socio-economic deprivation, emanate from article 6 of the ICCPR, regardless of the status of ESC rights under the domestic law of the State party. Any attempt to extricate socio-economic components of the right to life results in denials of the protection of the right to life of the most vulnerable groups.

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<sup>33</sup> *Patricia Asero Ochieng and 2 Others v the Attorney General & Another*, Petition No. 409 of 2009, High Court of Kenya at Nairobi, online: < <http://www.escr-net.org/sites/default/files/Judgment-Petition-No-409-of-2009%20Anti%20counterfeit%20case.pdf>>.

<sup>34</sup> *Minister of Health and Others v Treatment Action Campaign and Others, (No 1)*, [2002] ZACC 16.

<sup>35</sup> *Chaoulli v. Quebec (Attorney General)*, [2005] 1 S.C.R. 791.

<sup>36</sup> *Canadian Doctors For Refugee Care v. Canada (Attorney general)* 2014 FC 651 at paras 511, 570.

## E. Remedies to Violations of the Right to Life Linked to ESC rights

22. The recognition of the justiciability of ESC rights in recent years has brought with it significant advances in the understanding of effective remedies. Remedial approaches that have been developed in the context of ESC rights may also be applied to situations where positive measures required by article 6 require time to implement or are limited by available resources.

23. The CESCR has emphasized that States are required to take immediate, concrete, and deliberate steps, to the maximum of its available resources, toward the complete realization of rights.<sup>37</sup> It has emphasized that progressive realization should be understood as a standard for compliance with rights in particular contexts rather than as a defense for non-compliance. As in the case of accommodation of disability, compliance should be assessed relative to available resources and based on a rigorous standard commensurate with the priority to be accorded fundamental human rights.

24. Steps taken to realize rights “should be deliberate, concrete and targeted as clearly as possible towards meeting the obligations recognized in the Covenant.”<sup>38</sup> The obligation to devise and implement effective strategies and programmes is an immediate obligation that is not in any way eliminated as a result of resource constraints.<sup>39</sup> In each of its commentaries on particular ESC rights, the CESCR has emphasized the requirement of implementing targeted strategies with clear goals and timelines, with full participation of affected groups, providing for legal remedies and based on human rights principles. “Deliberately retrogressive measures” which set back the realization of rights, “would need to be fully justified by reference to the totality of the rights provided for in the Covenant.”<sup>40</sup>

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<sup>37</sup> ICESCR, Article 2(1), CESCR, *General Comment No. 3: The Nature of States Parties' Obligations (Art. 2, Para. 1, of the Covenant)*, 14 December 1990, E/1991/23, paras. 2, 9 [“CESCR General Comment 3”].

<sup>38</sup> CESCR *General Comment 3*, note 36 above, at para 2.

<sup>39</sup> *Ibid* at para 11

<sup>40</sup> *Ibid* at para. 9.

25. During debates regarding the drafting of the Optional Protocol to the ICESCR the CESCR proposed a standard for the assessment of compliance with the obligation of progressive realization comparable to the “reasonableness” standard that had been adopted by the South African Constitutional Court in the *Grootboom* case on the right to adequate housing. The Committee emphasized again that in assessing compliance with a reasonableness standard, it would consider, among other things, the extent to which the measures taken were deliberate, concrete and targeted towards the fulfilment of rights; whether the state acted within a reasonable timeframe; whether budgetary allocations were consistent with international human rights norms; whether the situations of disadvantaged, marginalized and at risk individuals or groups have been prioritized and whether decision-making is transparent and participatory.<sup>41</sup>

26. The *Optional Protocol* to the ICESCR prescribes a standard of ‘reasonableness’ in assessing steps taken and emphasizes that the progressive realization of *ICESCR* rights must be in accordance with the substantive rights guarantees. Article 8(4) also recognizes that “the State may adopt a range of possible policy measures for the implementation of the rights set forth in the Covenant.” The same provision was subsequently included in the Third Optional Protocol providing for a complaints procedure under the Convention on the Rights of the Child.

27. As obligations under different treaties and rights have become better understood as overlapping and converging, so too have standards for compliance converged. Emerging standards of reasonableness under both domestic and international law are now used to assess compliance with positive obligations to realize rights over time. These emerging standards of reasonableness are compatible with this Committee’s contextual approach to reasonableness as it has been applied under article 25 of the ICCPR and in its assessment of reasonable and objective limitations to Covenant rights, referencing the purpose of the *Covenant* read as a whole while recognizing that there may be many different ways in which States may choose to achieve the required results.

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<sup>41</sup> CESCR, “Maximum Available Resources”, *ibid.*

## **F. Recommendations**

**The Committee's new General Comment 36 on Article 6 should:**

- 1. Reaffirm the interdependence and indivisibility of the right to life with ESC rights, recognizing that obligations under article 6 frequently overlap with obligations to realize rights to food, clothing, housing, health, water sanitation and other ESC rights.**
- 2. Clarify that article 6 imposes obligations to address systemic factors leading to violations of the right to life, and requires the adoption of strategies with clear goals, timelines, monitoring and accountability, participation of affected groups and access to legal remedies.**
- 3. Clarify that violations of the right to life may result from either state action or inaction, may be intentional or may be unintended consequences of policies or programmes, may relate to failures to provide for minimum essential requirements of from failures to implement comprehensive plans and strategies or to regulate non-State actors.**
- 4. Ensure that the right to life is interpreted consistently with the right to substantive equality and non-discrimination, with particular attention to the circumstances of women, people with disabilities, migrants, children, indigenous peoples and other disadvantaged or marginalize groups.**
- 5. Clarify that obligations to ensure access to adequate food, housing, health care, water, sanitation and other requirements of life, dignity and security derive from the right to life itself and are not dependent on the status accorded ESC rights under the domestic law of a State party to the ICCPR.**